



Appeal Decision

Site visit made on 4 June 2019

by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 2nd July 2019

Appeal Ref: APP/R0335/W/18/3216895

Tuscany and land rear of Tuscany, Chavey Down Road, Winkfield Row, Bracknell RG42 7PB

- 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 Vanderbilt Homes Ltd and Mr & Mrs White and Mr & Mrs Wharton against the decision of Bracknell Forest Borough Council.
 - The application Ref 18/00119/FUL, dated 1 February 2018, was refused by notice dated 28 September 2018.
 - The development proposed was described on the application form as "demolition of single dwelling and erection of 12 dwellings with associated access road and landscaping".
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The original description of the proposed development is shown in the banner heading above. However, during the application process, the proposal was amended to 10 dwellings. Further public consultation took place and the Council determined the proposal for 10 dwellings. Therefore, I have assessed this appeal on the basis of a 10 dwelling scheme.
3. The above address differs from the application form as it refers to the property known as Tuscany as well as land to the rear. This is consistent with the decision notice and appeal form.

Main Issues

4. The main issues are the effect of the proposed development on:
 - (a) the character and appearance of the area;
 - (b) flood risk and the provision of drainage;
 - (c) highway safety; and
 - (d) the Thames Basin Heaths Special Protection Area (SPA).

Reasons

Character and appearance

5. The appeal site is located to the east of Chavey Down Road in Winkfield Row. Most of the site is beyond the settlement boundary and considered to lie within the countryside. Chavey Down Road is predominantly residential, with a linear

form of properties particularly along the eastern side. It lies within Area D of the Northern Villages study area in the Character Areas Assessment (CAA) Supplementary Planning Document (SPD) 2010. Amongst other things, the CAA SPD refers to the wooded nature of the area and requires development to not erode the street landscape while retaining rural gaps between settlements. It also states that backland development should ensure that it does not impact negatively on the existing street scene such as minimising gaps that allow access to the rear.

6. To the east of Chavey Down Road are fields and a recreation ground bounded by Forest Road and Locks Ride. This provides a green and open backdrop on this side of the road as noted in the CAA SPD. The site comprises a bungalow known as Tuscany, its rear garden, and a larger plot of land to the rear of six properties from Dundas to Winter Haven. These properties and a number of others either side are accessed via a slip road set back from Chavey Down Road by a line of vegetation which provides screening from the main road. The slip road properties are mostly bungalows or chalet bungalows. These properties are closely spaced, restricting views to the rear from the slip road.
7. The existing property at Tuscany contributes to the linear form of housing along Chavey Down Road and forms a coherent part of the slip road street scene. Its rear garden is unremarkable in size or condition. The larger plot of land to the rear is mostly laid to grass and enclosed by mature trees. It has the character and appearance of a large residential garden, in contrast to the fields that can be glimpsed through the trees to the east.
8. The green and open backdrop to the east of Chavey Down Road is not without incursions. There is a new cul-de-sac development of 5 two-storey dwellings immediately to the south of the appeal site to the rear of the properties from Winter Haven to Neuchatel, which is accessed via a gap off the slip road. To the north of the appeal site is another cul-de-sac development currently under construction for 9 dwellings which utilises an existing access. Although the northern development was on previously developed land and the southern development was permitted due to a lack of housing land supply at the time, both schemes can be glimpsed from the site within the larger plot.
9. My attention has also been drawn to a draft site allocation in the emerging Local Plan that would occupy much of the above green space between Forest Road and Locks Ride to the north and east of the site. While indicating a potential location of future housing, the emerging Local Plan is at an early stage of production and so can only be afforded limited weight.
10. The proposed development would involve the construction of 10 dwellings on the larger plot of land to the rear of Tuscany. It would be contained by the existing tree-lined boundaries and not intrude into the more open countryside to the east. Given the backland developments to the south and north, the cul-de-sac form of the housing would not be out of keeping in this location. There would be no significant loss of trees, rural gaps or views to the open countryside. It would not be highly visible from Forest Road to the north or Locks Ride to the east even during winter months due to the distances involved. Two-storey dwellings would be visible to the rear of the bungalows along the slip road but would be set back and similar in height to the 5 dwelling cul-de-sac to the south to avoid harmful effects on the street scene. As a result, there would be no harmful urbanising effect.

11. However, even in its revised 10 house form, the development would involve a greater number of houses than the cul-de-sacs to the north and south on a similar or smaller site area. While not especially cramped or lacking in light, some of the rear gardens would be restricted in size and shape particularly on the southern and eastern sides bounded by tall mature trees. The Plot 6 dwelling would have a relatively restricted outlook across to the flank elevation of the Plot 7 dwelling. These elements would have negative effects on the living conditions of future occupants of the development. Moreover, the development would result in the loss of Tuscan and the partial erosion of the strong linear form of housing along Chavey Down Road. The gap would not be particularly noticeable from the main part of Chavey Down Road given the vegetation screening, but it would have localised negative effects along the slip road.
12. As a consequence, there would be a negative effect on the character and appearance of the area. Therefore, the development would conflict with Policies CS1, CS7, CS9 of the Bracknell Forest Core Strategy 2008 (CS) and Policies EN8, EN20 and H5 of the Bracknell Forest Local Plan 2002 (LP). Amongst other things, these policies seek to protect local character and landscapes including in locations beyond settlement boundaries, and provide adequate space for private use and visual amenity. CS Policy CS23 is referenced in this reason for refusal but the policy relates to transport and so is not applicable.
13. The development would also not respect the CAA SPD insofar as it would result in a gap in the street scene eroding the linear form of development in this location. It would also not follow the criteria in Section 3.6 of the Design SPD which requires backland development to provide sufficient space for the number of dwellings proposed and be accessible without harming the character of the existing street frontage. Finally, it would not accord with the National Planning Policy Framework (NPPF) which promotes good design.

Flood risk and drainage

14. The proposed surface water and foul drainage strategy (SWFDS) including the technical drawing 17-316/001 Rev D indicates that surface water in the western part of the site would drain into the existing surface water network via the connection point for the current property at Tuscan. It would not use the foul water network as stated by the Council. Surface water for the rest of the site would drain to the north across to an existing ditch along the northern boundary of Larkfield and then into a pond beyond land in the ownership of the appellant. Greenfield runoff rates have been revised in an addendum to the SWFDS to a lower figure for the whole site and flows into the ditch and pond would not exceed existing rates.
15. However, there is disagreement between the main parties regarding the right to drain into another party's pond. The evidence before me is not conclusive regarding this right and so I have had to assume that it may not exist. There is also little evidence regarding the outfall, condition and capacity of the pond or the effect of existing water flows to the pond despite the Council's queries. Furthermore, there is a risk of pollution into the pond which is classified as a newt reserve, with the design solution proposed by the appellant in the form of permeable paving and geotextiles not appearing to provide sufficient treatment over a sufficient period. The above uncertainties regarding the use of the pond as part of the SWFDS means that it is not possible to take it into account. No alternative approach to the pond has been demonstrated.

16. A groundwater investigation was provided by the appellant in the SWFDS addendum. Survey work was undertaken in summer 2018 during a very dry period. This casts some doubt on the findings that infiltration tests failed to determine any viable rates at the site. There is also little evidence of what the conditions might be like during wetter winter months. As a result, groundwater levels might negatively affect the proposed drainage strategy solutions. Therefore, it has not been demonstrated via the SWFDS that there would not be an increase in surface water flow or flooding beyond the site.
17. There appears to have been a delay in receiving and/or publishing the revised comments of the lead local flood authority (LLFA) until a week after the application was determined. While this is unfortunate, the appellant has had the opportunity to respond to the revised LLFA comments as part of the appeal process and so I have taken the LLFA comments into account.
18. The appellant argues that planning conditions would address flood risk and drainage concerns by seeking the approval of a surface water drainage strategy. However, given the concerns regarding the use of the pond and the findings of the groundwater investigation, I cannot be certain that such conditions would make the development acceptable. Moreover, the Council's suggested conditions 19 and 20 deal with the maintenance, management and implementation of a sustainable drainage scheme in accordance with an approved surface water drainage strategy. Such a strategy does not exist. Therefore, it would be prudent for the appellant to address the Council's concerns in any new planning proposal.
19. Based on the above, it has not been demonstrated that the development would have an acceptable effect on flood risk and drainage. Therefore, it would not accord with NPPF paragraphs 163 and 165, which seek to ensure development does not increase flood risk elsewhere and incorporates sustainable drainage systems. It would also not accord with the Flood Risk and Coastal Change section of the Planning Practice Guidance which advises on reducing flood risk, and the Written Ministerial Statement (WMS) of 18 December 2014 on sustainable drainage systems for schemes of 10 dwellings or more (the WMS is now largely covered by NPPF paragraph 165).

Highway safety

20. At the appeal stage, minor amendments have been made to the site layout plan to address the concerns of the Council. These amendments provide the required 2 visitor parking spaces and the opportunity for a pedestrian/cycle link into the adjacent draft site allocation referenced above. They also clarify the continuation of the pavement across the site entrance along the existing slip road. The Council has confirmed that this addresses the reason for refusal which referred to access, footpaths and parking provision.
21. However, the Council still has concerns that the site layout would not provide sufficient margins along the new access road to accommodate services and utilities to enable the road to be adopted by the Highway Authority. The Council seeks adoption to enable the provision of the above pedestrian/cycle link. Although the appellant queries the likelihood of the site allocation coming forward given that the emerging Local Plan is still at an early stage, the amended site layout plan would not prohibit such a link being made.

22. The appellant has expressed a willingness to bring the road up to adopted standard which could include allowing for the access of a refuse vehicle. This could be achieved via planning conditions or obligations. It has not been demonstrated that issues relating to the adoption of the road have a negative effect on highway safety.
23. Based on the above, the development would have an acceptable effect on highway safety. As consequence, there would be no conflict with CS Policy CS23 or LP Policy M9. Amongst other things, the former seeks to maintain the local road network and increase the safety of travel, while the latter seeks satisfactory parking provision for vehicles. There would also be no conflict with NPPF paragraph 109 which states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety.

Thames Basin Heaths SPA

24. A signed and dated planning obligation was submitted by the appellant during the appeal process. This obligation sought to address the third reason for refusal regarding the mitigation of impacts on the Thames Basin Heaths SPA. Given my overall findings in the planning balance below, there is no need for me to conclude on the planning obligation or this main issue.

Planning balance

25. The appellant has not sought to challenge the Council's contention that it can demonstrate a 5 year housing land supply but has argued that relevant policies are lacking in consistency with the NPPF and are out of date. On the latter point, the Council acknowledges that some of its countryside policies (CS Policy CS9 and LP Policies EN8 and H5) are only partly consistent, but not out of date.
26. NPPF paragraph 213 states that due weight should be given to adopted policies based on their consistency with the NPPF. Although Policies CS9, EN8 and H5 are more restrictive in terms of countryside development, their aim to protect the character and beauty of the countryside aligns with NPPF paragraph 170(b) to a reasonable extent. Therefore, they can be attributed reasonable weight.
27. NPPF paragraph 11(d) states that where policies important for determining the proposal are out of date, permission should be granted unless (i) the application of policies in the NPPF that protect areas of assets of particular importance provide a clear reason for refusing the development, or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole. No applicable policies under 11(d)(i) have been demonstrated for this appeal.
28. Considering the adverse impacts, there would be harm to the character and appearance of the area through the layout of the development and the loss of the existing dwelling at Tuscany. The harm is moderated to some extent by the reduced weight I have given to Policies CS9, EN8 and H5, but there would still be some conflict with these policies and CS/LP Policies CS1, CS7 and EN20. The failure to demonstrate that the development would have an acceptable effect on flood risk and the provision of drainage is a more serious issue however, to which I attach significant weight.
29. Turning to the benefits of the development, the net gain of 9 extra dwellings would provide a medium windfall housing site to help boost local supply.

However, the number of extra dwellings is not large and it has not been demonstrated that the site is suitable in drainage terms. As such, the benefits would be no greater than moderate.

30. Therefore, in the event that NPPF paragraph 11(d)(ii) was applied, the adverse impacts would significantly and demonstrably outweigh the benefits. As such, the presumption in favour of sustainable development would not apply. In conclusion, the proposal is contrary to the development plan and national policy, with no material considerations to indicate that planning permission should be granted in this instance.

Other Matters

31. Interested parties have raised concerns with a number of other matters, but given my findings on the main issues, it has not been necessary to consider them in any detail.

Conclusion

32. For the above reasons, I conclude that the appeal should be dismissed.

Tom Gilbert-Wooldridge

INSPECTOR

Richborough Estates