

Appeal Decision

Site visit made on 11 November 2019

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 December 2019

Appeal Ref: APP/V3120/W/19/3233980

Land North of Summertown, East Hanney OX12 0JG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval to details required by a condition of an outline planning permission.
 - The appeal is made by Bovis Homes Ltd against the decision of Vale of White Horse District Council.
 - The application Ref P17/V2904/RM, dated 20 October 2017, sought approval of details pursuant to condition No 2 of outline planning permission Ref P15/V0343/O, granted on 3 May 2016.
 - The application was refused by notice dated 10 May 2019.
 - The development proposed is approval of details for construction of 50 dwellings (Use Class C3) and associated parking, infrastructure and landscaping, and provision of public open space.
 - The details for which approval is sought are: Appearance, landscaping, layout and scale.
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Decision

1. The appeal is allowed, and the reserved matters are approved, namely appearance, landscaping, layout and scale details submitted in pursuance of condition No 2 attached to outline planning permission Ref P15/V0343/O dated 3 May 2016, subject to the conditions set out in the attached schedule.

Procedural Matter

2. Subsequent to its determination of the application the Council adopted the Vale of White Horse Local Plan 2031 Part 2 (the LPP2). The LPP2 replaces the Vale of White Horse Local Plan 2011. Those saved policies which are cited in the reason for refusal are no longer material considerations, whereas Policies 23, 33 and 37 of the LPP2 carry full weight as part of the development plan.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the area and the setting of the East Hanney Conservation Area.

Reasons

4. The appeal site measures 2.56 ha and lies on the south-eastern edge of East Hanney, directly abutting the village conservation area. Outline planning permission was granted for up to 55 dwellings on this greenfield site and reserved matters approval was subsequently given for a scheme of 45 new homes. Development was underway at the time of my visit, with two houses substantially complete and others at differing stages of construction.

5. This reserved matters proposal for 50 dwellings was submitted in parallel to the 45 unit scheme. Its design and layout are substantively similar in the central and eastern parts of the site. The Council's objections relate principally to those dwellings (Plots 1 to 13) which would back onto existing residential properties in Main Street and Summertown.
6. The area immediately to the west of the site contains a variety of detached dwellings set within spacious grounds. This housing is built at a lower density than either of the schemes for the appeal site. Mature trees along the rear plot boundaries largely screen views of the site from Main Street, with a grouping of mature trees behind Lay Cottage providing an additional visual buffer.
7. The parties have undertaken analyses to compare the density of the existing housing to that being proposed. However, the reality is that the character of the built form on either side of the boundary will be different, whichever of the two schemes is implemented. Main Street and Summertown have a more organic feel, which is unsurprising given the diversity in age and style of property. Development on the appeal site, on the other hand, will have all the attributes of a suburban housing estate. The outcome will be two distinct character zones, as already exists elsewhere where modern housing adjoins the conservation area.
8. The housing on the western periphery of the approved layout would be less dense than that in the remainder of the development, with longer gardens to keep the buildings away from the site boundary. Nevertheless, I saw from the completed footings that these units would be relatively close together. The dwellings in the 50 unit proposal would be closer still, but not to the extent that would alter the character of the development from outside of the site. The comparison plan and perspective views provided within the appellant's evidence persuade me that schemes would be demonstrably similar in terms of their visual impact and the distances between dwellings and the boundary.
9. The loss of a wide green margin alongside approved Plots 10 and 11 is regrettable, as this provides opportunity for a swale. However, this area has no connection with the network of drainage ditches which run alongside lanes elsewhere in the village and therefore in my view the alteration to this section of the layout does not make the 50 unit scheme unacceptable. The proposal would retain a meaningful area of amenity space in this part of the layout.
10. Concerns have been raised regarding the insertion of a new plot adjacent to the site entrance onto Summertown. This area was shown as undeveloped on the approved scheme, comprising part of the buffer of land on the site frontage. The additional property would be set well back (circa 17 m) from the street behind existing vegetation and new tree and hedge planting. It would be largely hidden when approaching from either direction along Summertown. The dwelling would be glimpsed when passing the site entrance, and it would be visible from further afield when travelling northwards on the A338, but in these views it would be seen against a backdrop of a modern housing development. It would not be out of context or unduly prominent.
11. It is argued that the land to the side of Plot 1 would lose amenity value due to its reduction in size. However, the area would be landscaped, and it would make a positive contribution to green infrastructure within the site. There is no substantive evidence to indicate that this land was ever intended for informal

recreation. Dedicated public open space is provided towards the rear of the site, where there would also be a local equipped area for play.

12. The Council contends that existing trees on the site boundary would give rise to unreasonable shading of the gardens to Plots 1 and 13, thereby creating poor living conditions and leading to increased pressure to reduce or fell the trees. The submitted solar study confirms that some shadowing would occur depending upon the time of day and the season. The gardens would be shadier than others in the scheme, but residents would choose to occupy the affected plots in this knowledge. Whilst not necessarily ideal, the gardens would receive an adequate level of sunlight overall.
13. Of those trees identified, the one most worthy of retention is the walnut adjacent to Plot 13. This attractive specimen lies within the conservation area and as such the Council would retain control over any tree works. The residents of Plot 13 would have no ownership of the tree and this would minimise the risk of them seeking to fell or significantly reduce it.
14. Drawing matters together, the impact of the proposed 50 dwelling scheme would be similar to that of the already approved 45 unit scheme. There would be no material harm to the character and appearance of the area, and the setting of the East Hanney Conservation Area would be preserved. The proposal would thus accord with Core Policies 37, 39 and 44 of the Vale of White Horse Local Plan 2031 Part 1, LPP2 Policies 23, 33 and 37 and related local and national design guidance, insofar as they collectively seek high quality design which responds to its context, protects key landscape features and conserves the settings of designated heritage assets.

Other Matters

15. Many of the objections raised by the parish council and local residents relate to the principle of development, which has already been established through the grant of outline planning permission for up to 55 dwellings, or parameters which have already been set by that permission. This includes matters such as access arrangements, affordable housing, drainage and flood risk, slab levels, protected species and biodiversity enhancements. My determination of this appeal is restricted to the reserved matters of appearance, landscaping, layout and scale, with a particular focus on where these details differ from the approved 45 unit scheme.
16. Some respondents have drawn comparisons with a larger development which was proposed for land to the south of Summertown and subsequently dismissed on appeal. It is clear from my observations on site that this scheme would have been far more prominent due to the flat topography and absence of landscape features to screen the development. The scheme before me is materially different in that it is far better contained in landscape terms.
17. Whilst I have noted the concerns regarding design, the proposal shares similar house types to the approved scheme, and this would give the development its own identity. The Council raises no issue with the scale and appearance of the individual dwellings, and I have no reason to take a different view. Likewise, the Council considers the level of parking provision within the layout to be acceptable, and I concur.

18. Concerns have been raised about light pollution, but the impact of lighting is unlikely to be materially different from the approved scheme. A condition can be used to prevent the installation of street lighting. To deal with concerns over traffic noise from the A338, I have attached a condition to require the dwellings to be acoustically insulated.
19. The residents of one of the new properties on the Half Acre site have expressed fears regarding loss of privacy. The Council's Design Guide recommends a minimum distance of 21 m between facing habitable windows to prevent unreasonable overlooking. The siting of Plot 1 exceeds this standard and by some margin. Vegetation on the boundary provides additional protection from overlooking of the garden.
20. I have given careful consideration to all other matters raised in representations, but none is so significant as to lead me to a different overall conclusion.

Conditions

21. I have considered the Council's suggested conditions against the tests set out in paragraph 55 of the National Planning Policy Framework and within the Planning Practice Guidance (PPG). The Council has justified its conditions by reference to development plan policy which for the sake of brevity I shall not repeat here.
22. In the interests of certainty, I have attached a condition specifying the approved plans. To protect the character and appearance of the area, and to ensure clear skies, I have imposed conditions requiring the implementation of the landscaping scheme and preventing the installation of street lighting. Further details of boundary treatments are needed and therefore a condition is necessary to secure this information.
23. Conditions are necessary in the interests of highway safety to ensure that the parking spaces, roads and footways serving each dwelling are provided prior to occupation of that unit. A further condition is required to ensure the provision, prior to the occupation of the penultimate dwelling, of barn owl and bat mitigation measures.
24. The appellant's noise assessment report makes recommendations for measures to mitigate the impact of road noise on living conditions. A condition is required to secure the implementation of those measures.
25. The PPG indicates that permitted development rights should only be removed in exceptional circumstances. I am satisfied that a condition restricting extensions and boundary treatments can be justified in this case.

Conclusion

26. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

Robert Parker

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby approved shall be carried out in accordance with the details shown on the following plans, except as controlled or modified by the conditions of this permission:
 - Single garage plan & elevations – 0151
 - Double garage plan & elevations – 0151
 - Carport plan & elevations plots – 12-18 Rev B
 - Plots 15-18 bin & cycle store – 0151
 - Barn owl & bat roost building – SK012 Rev B
 - Tree pit details – 17-44-PL-207 Rev A
 - Planning layout (50 units) – 2-200 Rev G
 - Adoptable roads plan – 2-209 Rev D
 - Materials plan – 2-202 Rev C
 - Landscape planting proposals 1 of 3, 2 of 3 & 3 of 3 – 17-44-PL-222, 223 and 224
 - Landscape hardworks proposals 1 of 3, 2 of 3, 3 of 3 – 17-44-PL-225, 226 and 227
 - House types:
4B E01, A2 E04 Rev C, B E01 Rev C, D1 E01A Rev C, D1 E01B Plot 48 Rev C, D2 E01 Rev C, K E04 Rev C, X2 E01 Rev B, Y E01 Rev C, Y E04 Rev C, J E01 Rev C, J P01 Rev C, KC2 E02 Rev C, KC2 E03A Rev C, KC2 E03B Rev C, KC2 E05 Rev D, KC2 P01A Rev C, W E01 Rev B, W P01 Rev B, X E01A Rev C, X E01B, X E04, X P01 Rev C, Z E01 and Z P01.
- 2) Notwithstanding the details submitted with the application, prior to the occupation of the first dwelling details for the enclosure of the internal and external boundaries of the site, curtilages for all dwellings and the pumping station shall be submitted to and approved in writing by the local planning authority. The approved boundary treatments for each dwelling shall be completed prior to the occupation of that dwelling, and the approved boundary treatments for the whole site and the pumping station shall be completed prior to the occupation of the last dwelling.
- 3) Prior to their first occupation the dwellings and gardens shall be insulated against external noise in accordance with the mitigation proposals in the Hepworth Acoustics noise assessment (report no. P17-198-R01 v2 dated October 2017) submitted with the application.
- 4) Prior to the first occupation of each dwelling, the car parking spaces for that dwelling shown on approved drawing 2_200 Rev G - planning layout, shall be constructed, surfaced and where relevant, marked out. Thereafter, the parking spaces shall be kept permanently free of any obstruction to such use.
- 5) No dwelling shall be occupied until that part of the roads and footways which are to serve that dwelling (apart from the wearing course) have been provided. The wearing course shall be provided prior to the completion of the penultimate dwelling.
- 6) Prior to the occupation of the penultimate dwelling, the barn owl and bat roost building shown on plan nos. 2-200 Rev G - planning layout and SK012 Rev B - barn owl & bat roost building, shall be provided in accordance with the approved details.

- 7) All hard and soft landscape works shown on the landscape planting proposals, and the landscape hardworks proposals, shall be implemented in accordance with a timetable that shall be submitted to and approved in writing by the local planning authority prior to any development above slab level. Thereafter, the landscaped areas shall be maintained for a period of 5 years. Any trees or shrubs which die or become seriously damaged or diseased within 5 years of planting shall be replaced by trees and shrubs of similar size and species to those originally planted.
- 8) No street lighting shall be provided for the development at any time.
- 9) Notwithstanding the provisions of Classes A and B of Part 1 of Schedule 2 and Class A of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (or the equivalent provisions of any order revoking and re-enacting that Order), there shall be no extension to any dwelling, and no erection, construction, improvement or alteration of a gate, fence, wall or other means of enclosure without the prior grant of planning permission.

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