



---

## Appeal Decisions

Site visits made on 10 December 2025 and 28 January 2026

by **Bhupinder Thandi BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 5 February 2026

---

### **Appeal A Ref: APP/R0335/W/25/3363631**

#### **Milcote, Kings Ride, Ascot SL5 8AB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Brockenhurst Homes against the decision of Bracknell Forest Council.
  - The application Ref is 23/00235/FUL.
  - The development proposed is redevelopment of the site to provide 10 residential apartments with basement parking, refuse storage, reuse of existing access and landscaping following demolition of existing buildings.
- 

### **Appeal B Ref: APP/T0355/W/25/3363639**

#### **Milcote, Kings Ride, Ascot SL5 8AB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Brockenhurst Homes against the decision of Royal Borough of Windsor and Maidenhead.
  - The application Ref is 23/00921.
  - The development proposed is redevelopment of the site to provide 10 residential apartments with basement parking, refuse storage, reuse of existing access and landscaping following demolition of existing buildings.
- 

### **Decision**

1. Appeal A is dismissed, and appeal B is dismissed.

### **Preliminary Matters**

2. The appeals site is located within two local planning authority boundaries. The majority of the proposed development lies within Bracknell Forest Council's (BFC) administrative boundary, and the proposed access and part of the access road lies within the Royal Borough of Windsor and Maidenhead Council's area (RBWM). Identical planning applications were made to both Councils, and I have assessed the appeals on that basis.
3. Following determination of the planning applications the appellant has submitted additional information in the form of a revised site layout plan showing a realigned internal access road. A bat emergence survey and further highway evidence have also been submitted which, subject to conditions, RBWM advise would overcome reasons for refusal 3 and 4 listed on their decision notice. Based on the evidence before me there is nothing that would lead me to reach a different conclusion in respect of these matters. Accordingly, I have not addressed them in my reasoning below.
4. I have paid regard to this additional evidence in consideration of the appeals, and I note that both local planning authorities have commented on them. Having regard

to the Holborn Studios judgement<sup>1</sup> which follows on from Wheatcroft<sup>2</sup> I am satisfied that no interested parties have been prejudiced by my approach.

5. The revised National Planning Policy Framework (the Framework) has been published since the applications were determined. My decision is therefore made in the context of the revised Framework.

## **Main Issues**

6. The main issues are:

- Whether the proposal would be inappropriate development in the Green Belt having regard to relevant development plan policies and the Framework;
- The impact upon ancient woodland and trees; and
- Whether a planning obligation is required to make the proposal acceptable in planning terms.

## **Reasons**

### *Whether the proposal is inappropriate development in the Green Belt*

7. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The provision of new buildings are considered inappropriate save for a number of exceptions including the partial or complete redevelopment of previously developed land, whether redundant or in continuing use, which would not cause substantial harm to the openness of the Green Belt set out in paragraph 154(g). Policy LP34 of the Bracknell Forest Local Plan (2024) (BFLP) sets out that proposals in the Green Belt will be assessed in accordance with national guidance.
8. The appeal site accommodates a large, detached dwelling showing signs of disrepair sited close to the road frontage. Sandwiched between it and the northern boundary is a modern two storey cottage. Beyond the northern boundary is an area of ancient woodland. Further into the site and positioned in proximity to the same boundary is an elongated stable block, pool house, pump room and garage. As with the main house, all are showing signs of disrepair consistent with prolonged periods of neglect and lack of maintenance. There are miscellaneous items and vehicles scattered across large areas and whilst some are movable a considerable number appear to be semi-permanent fixtures and collectively these items present a solid mass on site, and which further add to the site's disparate and dilapidated appearance.
9. The overall site is considerable and includes overgrown grassland and groups of trees a number of which on account of their maturity, height and crown spread are visible from public viewpoints and positively contribute to the visual amenity of the area. These trees combined with mature hedgerow and planting contribute to the semi-rural character of the area and create a sense of enclosure.
10. Kings Ride is characterised by large dwellings and flatted developments set within mature grounds with generous separation between buildings enclosed by mature

---

<sup>1</sup> Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

<sup>2</sup> Bernard Wheatcroft Ltd v Secretary of State for the Environment [JPL, 1982, P37]

trees and pockets of woodland resulting in a semi-rural appearance. Englemere Pond Nature Reserve neighbours the site to the rear and at the time of my site visit appeared to be a popular destination for recreational activity including dog walking.

11. There is no dispute between the main parties that the site meets the definition of previously developed land in the Glossary to the Framework because it lies beyond a built-up area. Therefore, the key question is whether the proposal would cause substantial harm to the openness of the Green Belt.
12. The Framework states that one of the essential characteristics of the Green Belt is its openness. Openness is the absence of development notwithstanding the degree of visibility of the land in question from the public realm. Openness has both spatial and visual aspects.
13. Taking the appellant's case, the proposed development would result in a reduction in the overall volume and gross external area compared to existing and permitted buildings at the site, although these calculations do not include the proposed basement. When taking the basement into account the footprint and volume of the proposal would be notably larger compared to the existing built form.
14. Whilst numerical calculations are useful, they are not the only means by which the effect upon openness should be assessed. The existing built form, paraphernalia and vehicles rather than being spread widely over the site would be consolidated into one building concentrated into just one area. As such, the proposed building would occupy a relatively compact area despite its overall scale, mass and bulk resulting in moderate harm to the spatial openness of the Green Belt.
15. When travelling along Kings Ride either on foot or driving along it the proposed building would not be prominent due to the considerable set back from the road. Views would be glimpsed filtered by intervening trees and mature vegetation along the roadside boundary.
16. At the time of my second visit, I walked around the nature reserve and the path around Englemere Pond. In my view the proposed building would not be discernible from the nature reserve given its position in the middle of the site and obscured by intervening trees even during autumn or winter when most of the foliage would not be present.
17. Therefore, given its contained nature there would not be any significant appreciation of the proposed development, and, in my judgement, there would be a neutral impact upon the openness of the Green Belt in visual terms.
18. Although there would be an intensification of residential activities at the site including domestic paraphernalia and increased vehicle movements, this would be entirely in keeping with the residential character of the area. The replacement of miscellaneous items and stored vehicles with domestic ones whilst resulting in visual change would not diminish the openness of the Green Belt.
19. Although concerns in respect of the effect upon the character and appearance of the area have not been expressed by BFC, comments have been advanced that the position of the proposal would be out of keeping with the established building line. However, it is apparent that the built form along Kings Ride is sporadic with varying distances from the road and spacing between buildings. Based on the available information there is no defined or consistent building line, nor are the

positions of buildings readily apparent from the public realm. Accordingly, I do not agree with BFC that the siting of the proposed building would be harmful or out of keeping with the local context.

20. My attention has been drawn to the commentary to BFLP Policy LP34 which sets out that replacement buildings are expected to be sited on or close to the position of the original building. However, it is just that – commentary. It is not itself a policy or part of a policy. Furthermore, this approach is not consistent with the Framework. The possibility of invasive species being present and the potential for future pressure to remove boundary planting is essentially speculative and as such, I give these aspects of BFC's argument negligible weight in coming to my decision.
21. There is no definition of what constitutes substantial harm in the Framework and, as such it is a matter of planning judgement. Drawing the above matters together the site constitutes previously developed land and for the reasons set out above the scheme would not reach the high hurdle of causing substantial harm to the openness of the Green Belt.
22. As such, the proposed development falls within the exception set out in paragraph 154 g) of the Framework and therefore does not constitute inappropriate development in the Green Belt. Accordingly, there would be no conflict with BFLP Policy LP34 or the provisions set out in the Framework in this regard.

#### *Impact upon ancient woodland and trees*

23. Ancient woodland are irreplaceable and in this regard paragraph 193 c) of the Framework states that development resulting in the loss or deterioration of ancient woodland should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists.
24. Standing Advice in relation to planning applications in respect of ancient woodland is provided by Natural England and the Forestry Commission. This sets out that there must be wholly exceptional reasons to approve development which would lead to the deterioration of ancient woodland. The guidance does not define deterioration but includes a list of direct and indirect effects that they consider can lead to it.
25. Direct effects include damaging roots and understorey; damaging or compacting soil; increasing levels of air and light pollution, noise and vibration and changing the water table or drainage. Indirect effects include reducing the amount of semi-natural habitats next to ancient woodland that provide important dispersal and feeding habitat for woodland species; increasing the amount of dust, light, water, air and soil pollution; increasing disturbance to wildlife, such as noise from additional people and traffic; increasing damaging activities such as by people accessing the woodland or tree root protection areas.
26. The Standing Advice reflects the Framework and the Planning Practice Guidance and is intended to direct decision makers as to how development impacts should be assessed in relation to ancient woodland. The Standing Advice sets out that buffer zones can protect ancient woodland, and its size and type should vary depending on factors including the scale and type of development and its effects and the character of the area. It states that ancient woodland proposals should have a buffer zone of at least 15m.

27. That said, the recommendation for a buffer zone is not planning policy nor a statutory requirement but rather guidance. Its wording infers a degree of flexibility. In my view development within it does not automatically equate to harm. It is a matter of best judgement depending on the particular circumstances and merits of the case.
28. The cottage, stables and garages are likely to have resulted in residential activities taking place pretty much next to the ancient woodland. Whilst the proposed development would result in more residents living on site and with-it associated vehicle movements this would not be intensive and would take place further away from the ancient woodland compared to the current situation. I am not persuaded, given the relatively modest number of apartments proposed, that there would be direct or indirect effects from the proposed development that would lead to the deterioration of the ancient woodland. I am also mindful that existing structures would be removed and turned over to soft landscaping enhancing the buffer between the site and ancient woodland. As such, I am satisfied that the proposed development would not lead to the deterioration of the ancient woodland.
29. Turning now, to the impact upon trees. Trees of varying species and maturity are positioned in and around the site. In particular RBWM has identified the potential impact upon a high-quality Common Beech tree; a high quality Pedunculate Oak and two Scots Pine trees one high quality and one in moderate condition. These trees are located at the entrance into the site and on account of their position, maturity, height and crown spread are clearly visible from Kings Ride and make a positive contribution to the appearance of the area.
30. Currently part of the driveway extends into the Root Protection Area (RPA) of these trees, however the access is to be widened, and the proposed access road and footway would further encroach into their RPAs.
31. Having regard to the appellant's Arboricultural Impact Assessment there is nothing before me to clearly indicate the degree of encroachment into the unsurfaced area of the RPAs. I have not been provided with a clear indication of how much land within the RPAs is already surfaced or areas that are unsurfaced. Accordingly, I am unable to conclude on the extent of the incursions into the RPAs and whether this would be within acceptable tolerances set out in BS5837:2012 Trees in relation to design, demolition and construction.
32. The appellant's arboricultural evidence indicates that works in this area would be carried out using no-dig construction techniques and that excavation of any new kerbs and bell-mouth would be undertaken under arboricultural supervision but there is nothing substantive in respect of how this would be carried out. There is uncertainty over the no-dig solution particularly as there is nothing before me in respect of the existing or proposed land levels to show what changes in levels will be required to provide access from Kings Ride. In addition, in the absence of a method statement or engineer design specification there is no certainty that the health of trees would not be unduly compromised during the construction works or post occupation. In my view given the prominence and maturity of the trees this is not a matter that should be left to conditions.
33. I have insufficient information before me in respect of the impact of the proposed development upon trees and therefore the proposal would be contrary to Policies QP1, QP3 and NR3 of the RBWM Borough Local Plan (2022) (RBWMBLP) which,



amongst other things, seek to enhance green infrastructure, provide high quality soft landscaping and careful consideration of the impact on existing trees that make a particular contribution to the appearance of the area.

### **Planning Obligations**

34. Both local planning authorities advise that the proposed development would trigger a planning obligation including in respect of biodiversity net gain, active open space, community facilities and affordable housing.
35. I am satisfied that the contributions would satisfy the tests for planning obligations set out in Regulation 122 of the Community Infrastructure Levy Regulations (2010) and the proposed development is a type that would impact on local services and facilities resulting from an increased resident population.
36. Planning appeals: procedural guidance states that an executed and certified copy of the planning obligation must be submitted at the time of making an appeal. The necessary planning obligation has not been provided and there is no mechanism by which to secure the necessary contributions. The contributions cannot be secured by condition.
37. Consequently, in the absence of a completed planning obligation the proposal fails to mitigate its impact upon local infrastructure. It would be contrary to the requirements of RBWMBLP Policy NR2 and BFLP Policies LP16, LP44, LP45, LP53 and Supplementary Planning Document 'Planning Obligations' which, amongst other things, seek to secure appropriate affordable housing, community facilities and open space contributions and to avoid negative impacts on biodiversity.

### **Other Matters**

38. The appeal site is located within proximity to the Thames Basin Heaths Special Protection Area. BFC's second reason for refusal relates to whether likely significant effects can be mitigated. However, as I have found harm in respect of the impact on trees and the absence of a planning obligation which are significant enough to dismiss the appeal there is no benefit in me pursuing this matter any further.

### **Planning Balance**

39. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.
40. Both BFC and RBWM cannot demonstrate a five-year deliverable supply of housing land and as such the policies which are most important for determining the applications are out-of-date and paragraph 11 d) of the Framework, which is a material consideration of significant weight, is engaged.
41. Where policies are out-of-date, paragraph 11 d) states that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.

42. The delivery of 10 apartments would make a modest contribution towards housing supply in Bracknell Forest meeting the needs of the area. Accordingly, the delivery of market units attracts great weight in favour of the development.
43. The development would provide jobs, but this would largely be limited to the construction phase. Although the site is outside the settlement boundary, it is in a location that is within a reasonable distance of a range of day-to-day services. New residents would support services and facilities located within Ascot and the local area through increased expenditure. Whilst I have paid regard to the job creation and household expenditure figures presented by the appellant these social and economic benefits attract moderate weight in favour of the proposal.
44. There is nothing compelling before me to demonstrate that the proposed development would improve affordability in the area and as such it attracts negligible weight in the overall balance. The provision of areas of open space on site and the buffer to the ancient woodland are of neutral consequence in the overall balance.
45. On the other hand, I am not satisfied that it has been adequately demonstrated that the proposed development would not have a detrimental impact on a number of trees. Given their prominence and the positive contribution these trees make to the appearance of the area this matter carries significant weight against the proposal. So too does the absence of a planning obligation and the adverse impact of failing to provide biodiversity net gain, active open space, community facilities and affordable housing.
46. Even taking into account the objective to significantly boost the supply of housing including on previously developed land and the housing land supply position for both authorities, the conflict between the proposal and the most important policies in the respective development plans should be given very significant weight in these appeals. In the context of the above, and taking into account the aforementioned other considerations, I find that the identified adverse impacts of the development would significantly and demonstrably outweigh the identified benefits of the proposal, when assessed against the policies in the Framework taken as a whole. Consequently, I conclude that the proposal would not deliver a sustainable form of development. Therefore, the appeals are dismissed.

## **Conclusion**

47. For the reasons set out above the appeals do not succeed.

*B Thandi*

INSPECTOR