



Appeal Decision

Hearing held on 16 & 17 June 2015

Site visit made on 17 June 2015

by Katie Peerless Dip Arch RIBA

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

Decision date: 9 July 2015

Appeal Ref: APP/H1705/W/14/3001715

TJ Lowery Group Holdings Ltd, Riverside View, Basing Road, Old Basing, Basingstoke Hampshire RG24 7AL

- 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 Mr T Lowery against the decision of Basingstoke and Deane Borough Council.
 - The application Ref 13/02532/FUL, dated 28 November 2013, was refused by notice dated 3 July 2014.
 - The development proposed is demolition of existing office buildings on site and redevelopment of site with 24 no 2 bedroom apartments and associated parking and cycle storage.
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Decision

1. The appeal is dismissed.

Procedural matters

2. At the Hearing, the Council confirmed that, because it had received further information from the appellant on ecology and biodiversity matters since the application was refused, reason for refusal 10 was now satisfied. It did however maintain that the proposed development would have a harmful impact on biodiversity for the reasons set out in reason for refusal 11.
3. The Council also confirmed that it accepted the appellant's evidence that the particular constraints of the site would make the provision of affordable housing unviable and a contribution on this matter was not being pursued. It was also confirmed that no contributions were now being sought for the provision of allotments or for transport. The former is because this is a matter that falls outside the remit of the Borough Council and the latter because the Council brought a CIL charging schedule into force on 6 April 2015.
4. All the other contributions sought by the Council have now been provided for by the appellant through a unilateral undertaking (UU) entered into under section 106 of the Town and Country Planning Act 1990 (as amended). The Council had one outstanding query on this undertaking, relating to whether the existing tenants on the site should be party to the agreement, because there was a concern that if they were to implemented any planning permission they might not be bound by the undertaking. However, I am satisfied that they could not do this without the consent of the owner and, in that case, the undertaking would come into effect.

Main Issues

5. I therefore consider the main issues in this case are now:

(i) whether the proposed development represents a sustainable form of development in respect of its location and in the provision made for transport by bicycle;

(ii) the effect of the proposed development on:

(a) the character and appearance of the surrounding countryside;

(b) the setting of nearby heritage assets;

(c) the living conditions of future occupiers with particular reference to amenity space, sunlight and daylight;

(d) highway safety and the free flow of traffic in Basing Road;

(e) existing trees on the site;

(f) public health;

(g) biodiversity on the site;

(h) flood risk and

(iii) whether the design of the proposed development is of an acceptable standard with particular reference to its density, siting, scale and massing and its response to the local context.

Site and surroundings

6. The appeal site is located in countryside about 1.5 miles from the town of Basingstoke, on the edge of the village of Old Basing, within the Old Basing Conservation Area. It is roughly triangular in shape and is bounded to the north by a railway line on the top of an embankment, to the southeast and north east by the river Loddon and to the south west and north west by Basing Road. To the south west, on the other side of the river, stand the grade 1 listed tithe barn and the grade II listed farmhouse, cart shed and outbuildings at Grange Farm. Further to the south lie the remains of Basing House, listed grade II, which was built on the site of a Norman motte and bailey castle and is a scheduled ancient monument.

7. The 'red line' site area is about 1.04 hectares and a part of this is agreed by the Council to be classified as previously developed or 'brownfield' land. This section contains 3 office buildings and associated car park, with part of this having planning permission for another office building. The remainder of the site is woodland and reed beds.

Appeal proposals

8. The planning application subject of this appeal is for the demolition of the existing offices and the redevelopment of the 'brownfield' site and part of the adjacent woodland with 4 blocks containing a total of 24 two bedroom flats. The blocks would each be on 2 floors and have part of the accommodation within the roof space and, at their highest point would be 8.5m high. Blocks A, B and C have the same design but block D, whilst incorporating similar detailing, would have a different floor plan.

Reasons

Sustainability of the location

9. The Council accepts that, since the National Planning Policy Framework (the Framework) was published in 2012, less weight can now be placed on the requirements of saved policy D9 of the Basingstoke and Deane Local Plan 2006. This policy deals with the re-use of brownfield sites and buildings in the countryside and has a requirement for a marketing exercise for the site to be carried out before a change of use is accepted and stipulates that the site should be in a sustainable location. The Framework however does not refer to all these criteria and D9 is consequently not in complete conformity with it.
10. The Council now places limited reliance on a marketing exercise and attaches less weight to the sustainability of the location. The appellant has, in fact, carried out a marketing exercise and the Council has accepted its findings. Nevertheless, the Council considers that the occupants of the new flats would be largely reliant on the private car and that the scale and density of the development would result in the sustainability credentials of the site being low.
11. The site is relatively close to Basingstoke, as noted above, and within easy cycling distance of the town centre. The facilities in the village of Old Basing, which include convenience stores, pubs, village hall and infant and junior schools are within walking distance. At present there is no footpath along Basing Road between the site and the bridge over the river, although one is proposed in the appeal scheme. There is, however, no proposal to provide pedestrian-only access over the bridge.
12. 2 bus services run an hourly service within walking distance of the site. The stops for the service number 14 (Basingstoke to Tadley) is roughly 8 minutes walk from the site and it is about 12 minutes to those for service number 10 (Liphook to Odiham). Both these routes run Monday to Saturday only. There is also a schools service through the village during term times. The closest station is in Basingstoke.
13. It can be seen from this that, while it would be possible to undertake some journeys via public transport or bicycle, the options are limited and if the bus timetable did not suit individual needs, it would be likely that many residents would use their cars for most journeys. However, the trips to the town centre would be short compared to many from rural brownfield sites and, while the location is not ideal, it was readily accepted by the Council that it would not object on these grounds to a more limited development of the site.
14. The sustainability credentials of the site reduce proportionately in relation to the increase in numbers of units on the site, due to the increase in numbers of car journeys undertaken, and the appeal scheme represents a more intensive use of the site than the current office use. Even if the consented 4th office building were to be completed, it is likely that this would still be the case. Therefore, whilst some residential development on the site would be acceptable when considered against Local Plan policy D9 and the Framework, I am concerned that the level of occupation proposed might not, on balance, represent the most sustainable use of the site.

15. In terms of the provision of cycle parking, the Council did not object to the number of spaces proposed but rather to the layout of the cycle stores, which it considered to be too cramped to encourage optimum use. During the Hearing, the architect for the proposals produced an alternative layout which showed how the cycle stores could be enlarged and repositioned to meet the Council's desired specification. This would result in a small additional encroachment into the woodland area but, on its own, this would not, to my mind, be serious enough to warrant refusal of planning permission, should this be the only objection to the scheme.

Character and appearance

16. Although, as noted above, the developed parts of the site can be classified as rural brownfield land, there is about 1000 sqm of designated countryside outside the previously developed boundary that would be lost to the countryside designation. Although the site is at present reasonably well screened from the road and the footpath along the river by the existing vegetation, the appeal proposals would necessarily require the removal of a number of trees to the north of the woodland to accommodate the car parking. The remainder of the woodland would need to be subject to a management plan to allow it to function as amenity space and to ensure healthy growth in the future.
17. From discussions at the Hearing it seems highly likely that the management of the woodland would include rotational coppicing of the alders and other trees but there was disagreement as to whether this would increase or reduce the visibility of the proposed new buildings. At present, the trees have grown tall since they were planted, apparently in the late 1990s with little understorey growth other than nettles. If they were to be coppiced, the understorey would thicken but the tree height would obviously reduce.
18. It seems to me that the result of the combination of the greater mass of built form, together with the encroachment of the hard surfaced areas into the woodland and the necessary management of the vegetation would result in the development being significantly more visible than the existing buildings on the site. The site visit took place in mid-summer when the trees are in full leaf and during the times when this is not the case the appeal proposal would, I consider, be particularly apparent. The proposed development would represent a noticeable urbanisation of the site and, in my view, this would detract from the existing verdant character of the site and its immediate surroundings. This would conflict with save policy E6 of the LP which, amongst other things, requires new development to be sympathetic to the landscape quality of the area.

Heritage assets

19. The site is within the Old Basing Conservation Area which includes not only the centre of the village and its wealth of historic buildings but also the open countryside and woodland to the north and west of the river. This space divides the village from the suburbs of Basingstoke and helps to confirm its separate, historic identity. The proposed development would result in an erosion of this important space in Area 1 of the conservation area where there is at present very little built development on this side of the river, apart from the existing office buildings on the site, a small complex including the grade II listed Bartons Mill and Millstone pub on the river and Railway Cottages on the border of the conservation area to the west.

20. Although the point was made that most views of the development would be from within the site, there would nevertheless be a clear view of block A from the road which would largely fill the view across the entrance driveway. This would confirm from the public realm that the appeal scheme was a denser form of development than existing and also higher, by about 1.25m at some points.
21. It is also the case that, within conservation areas, private views can be as important as public ones, and the layout within the site, both existing and proposed, will therefore contribute to the wider character of the conservation area. The new blocks would be only about 3.75m apart at their closest points and the gaps would only really be apparent when standing between the individual blocks. Otherwise, the scheme would largely appear as a solid mass of building running along the whole length of the site, albeit with a degree of articulation. This would, I consider, be more appropriate to an urban area rather than the countryside and would fail to respect the current low-key character of the office development or respond appropriately to the largely rural nature of the surroundings.
22. The bridge on Basing Road marks the point at which the village confines change to open countryside and it is at this point that the proposed footpath to the site and running along the roadside would begin. It was suggested that this path could, in fact, be located further into the site to prevent the loss of the tree screen at the edge of the road, but the implications of this fairly significant change have not been fully considered or consulted upon. Therefore, whilst I am sure it would be possible to re-route the path, I have nevertheless considered only the scheme that actually forms part of the appeal proposals.
23. The path would open up more of the site to views from the road and would reinforce a link between the built development of the village and the site. This, together with the considerable increase of built form on the site, would, in my opinion, be detrimental to the character and appearance of the conservation area and cause harm to this heritage asset.
24. The appeal site is, I consider, within the setting of Grange Farm as it forms part of the wider countryside surrounding the complex from which it is experienced. There is also some limited visibility between the environs of the Grade I listed tithe barn and the site and the barn is a building in the most important category of heritage assets. The additional development of the site would, as noted above, urbanise the site which would be harmful to the rural setting of the heritage asset.
25. This harm, and that to the conservation area, would not amount to the substantial harm that the Framework, in paragraph 132, indicates should normally result in refusal of planning permission. However, paragraph 134 of the Framework confirms that any harm will need to be weighed against the public benefits of the proposal. It is also the case that s66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA Act) places a duty on decision takers to pay special regard to the desirability of preserving the setting of listed buildings before granting planning permission.
26. Saved LP policies E2 and E3 seek to protect listed buildings, conservation areas and their settings from harmful development and I consider that, for the reasons set out above, the proposed development would conflict with the aims and objectives of these policies.

Living conditions

27. The Council is concerned that the rooms on the north of the new blocks would have very little natural daylight as they would look out onto the railway embankment and the vegetation on it. All the living rooms in this position would have an alternative source of light in the form of three full height glazed doors but the bedrooms would rely on a single, albeit generously sized window in each room. The appellant produced 'rule-of-thumb' calculations that show that the daylight factor for the bedrooms would be 1.66, 1.8 or 1.9 against a recommended minimum of 0.5 and for the living rooms with north and east facing windows it would be 2.2 against a minimum of 1.
28. These factors do not take the slope of the embankment or the trees on it into account but given that the factors well exceed the minimum and that light levels in bedrooms are not as critical as in other parts of the dwelling, I find no reason to refuse planning permission on these grounds.
29. The Council is also concerned that the private amenity space available for prospective occupiers would be below an acceptable standard. As noted previously, this space would be between and around the blocks of flats and beyond the car parking area in the woodland. I am not persuaded that the land around the blocks would ever be utilised as amenity space to any meaningful extent. There is no indicative landscaping layout shown on the plans but much of this space would consist of small areas close to the railway embankment and overshadowed by the buildings. They would not, to my mind, be areas that residents would be likely to use for recreational purposes.
30. The area of woodland beyond the car park would be more pleasant, once it had been subject to management works. However, it could not be cleared to the extent that it could provide any kind of formal garden if it were still to remain as a partial screen to the proposed development. It could form a green setting to the dwellings but would not, I consider, be of much other practical use to residents. It could be used for children to play in and explore but the numbers of families occupying the flats in the development are likely to be limited. In any event, only a part of the undeveloped area could be given over to the residents to use, as the remainder would need to be separated off for both safety and biodiversity reasons, as discussed in subsequent paragraphs.
31. There is no set quantum of amenity space required through the adopted Local Plan and the proposed development is therefore not in breach of any set spatial requirements. The appellant has also agreed, through the UU, to make provisions for enhancements to existing public open space and play areas at Bartons Mill. Nevertheless, the lack of useable private amenity space available for the development is, I consider, a factor that indicates that the proposals represent an overdevelopment of the site and weighs against the grant of planning permission for it.

Highway safety

32. The objections on highway grounds relate to the installation of security gates at the entrance to the site and the problems that would occur if larger vehicles were to turn into the approach to these and then fail to gain admittance. As designed, there would be insufficient space for the vehicles to turn back onto the highway in forward gear.

33. However, at the Hearing, the Council confirmed that, provided the gates could be kept open during the day, it may be possible to find an acceptable solution to this problem and several alternatives were discussed. The appellant raised no objection to the imposition of a condition requiring the submission of scheme to the local planning authority for approval, showing how the gates and the entrance area would operate. I am satisfied that this would ensure that highway safety on Basing Road would not be compromised and the reason for refusal on this ground could be overcome.

Trees

34. As noted above, the appellant confirmed that the existing trees between the car park and the reed bed were planted in 1999/2000 as part of a condition attached to an implemented planning permission for the site. The woodland has not been managed since that time and many of the trees are now leaning or have fallen over in the wet ground conditions. On the northern boundary, self-seeded specimens have grown through the wire fence and are crowding in on the existing buildings.
35. A number of trees on the north side of the woodland would need to be removed to accommodate the proposed development and this would leave the remainder exposed, with little side growth to their trunks below the crowns. This would mean that these trees were even more at risk from collapse than previously and there seemed to be general agreement that the best treatment in these circumstances would be to coppice the specimens.
36. The appellant's arboricultural expert considered that this would need to be undertaken for the health of the woodland in any event as part of a management plan. He explained that he envisaged that this would take place in stages, thereby maintaining an appropriate amount of cover to provide screening to the development. The Council's expert was sceptical that enough screening would remain to be effective and I can understand his concerns. It would not be the work to the trees in itself that would be harmful and, if coppicing were to be carried out now, the resulting views of the office development would be increased but enough space exists between and around them to ensure that the buildings would not appear unduly prominent.
37. However, I consider that the additional bulk of the proposed development, together with any thinning of the trees would give more prominence to the built form on the site rather than the wooded surroundings and this would lead to the urbanisation of the site that has been described in preceding paragraphs.

Public health

38. The site was apparently formerly used for landfill between 1948 and 1964, prior to the construction of the offices. It seems that it was mainly used for fly ash tipping but this has not been conclusively established. The appellant has carried out a Stage 1 survey of the site and this was submitted with the application.
39. It is accepted that a Stage 2 survey will be needed to establish the exact level and extent of any contamination and the Council considers that this should be carried out before planning permission is granted. The appellant nevertheless considers that this could be covered by a condition requiring the submission of the report before the development is commenced.

40. However, the results of the survey may well influence the layout of the proposal and it seems to me to be a sensible precaution to carry out the work prior to any grant of planning permission to ensure that the scheme could, in fact, be built out as envisaged. If this were the only matter of concern relating to the proposed development I do not consider that the lack of the stage 2 report at this stage would be fatal to the application, but combined with the other objections to it, the uncertainty adds to the weight against it.

Biodiversity

41. The Council now accept that sufficient information has been submitted to allow proper consideration of the ecological impacts of the proposals to be carried out. However, there is a tension between the need to manage the woodland and reed beds to allow the proposed development to proceed and the benefits of leaving the ecological systems on the site in their natural state. The experts for the appellant and the Council consequently disagreed on the impact the proposed development would have on the biodiversity of the surroundings.
42. The boundary of the Basing Fen and Wood Site of Important for Nature Conservation (SINC) runs through the site and 3 small areas of designated land would be lost to the development. However, the largest of these areas contains storage containers and dilapidated portacabins which already detract from the quality of the site. It is proposed that the SINC would be separated from the amenity area of the woodland by a hedge, reinforced by a chestnut paling fence, which would create a buffer zone at least 5m wide into which the residents would not have access. This boundary treatment would continue around the car park to the northern boundary of the site. The appellant considers that the management of the woodland both inside and outside the SINC and the buffer zone would provide adequate compensation for the loss of the undeveloped parts of the site.
43. Given that the Council accept in principle the redevelopment of the brownfield parts of the site, the work to improve the woodland would obviously be a benefit if there was no encroachment into it. However, the area of existing woodland outside the SINC that would be enhanced through the biodiversity improvements would be about 430sqm and this would be set against the loss of some 1000 sq m which does not include the footpath. Whilst the proportion of the SINC that would be lost is a very small, I am not persuaded that the loss of the other areas of woodland would be compensated for by the proposed measures and the result would be a net loss of biodiversity.
44. It is also the case that the existing woodland, whilst unmanaged at present, nevertheless provides a particular habitat of alder woodland with nettle growth below. Although not useable as amenity space in its current state, this woodland is a suitable habitat for some bird species that are already under conservation pressure. The proposed development envisages parts of the woodland being used by residents, and possibly their pets, and this would inevitably cause some disturbance to the current ecological balance.
45. Saved LP policy E7 calls for proposals to conserve, and where possible enhance, the biodiversity of the environment and this is in accordance with paragraph 118 of the Framework. For the reasons set out above, the proposed development would, in my opinion, fail to achieve these aims and this is another factor weighing against the scheme.

Flood risk

46. The Council considers that, as the site lies within Flood Zone 2, the Sequential Test as set by the Environment Agency (EA) should be carried out, to establish whether there are any sites that could accommodate the development and which have a lower flood risk. The appellant considers that, as the site is previously developed, the test is not relevant in this particular case.
47. If the application were to be for a change of use, EA advice indicates that the Sequential Test would not be required. However, as previously noted, in this case the site for development is larger than the existing 'brownfield' area and also represents a more intensive use than at present. I note that the site has not flooded even in recent times of heavy rainfall but in order to support the proposal to expand the built footprint I consider that the Sequential Test should be undertaken. This would need to demonstrate that there is no preferable site, in terms of flood risk, that could accommodate a development of the quantum and type proposed here. If the test shows there is no suitable alternative, the Exception Test can then be applied to justify the grant of planning permission.
48. Without such tests the proposed development does not comply with paragraphs 101 and 103 of the Framework which calls for the Sequential Test, and if appropriate, the Exception Test to be applied to proposals for vulnerable development, such as housing, in areas at risk of flooding.

Design standards

49. The design of the 4 blocks of flats proposed on the site has been criticised by the Council as being of a form that would be more suited to an urban environment rather than a countryside location. The palette of the materials proposed are those found in the locality but the massing of the blocks appears driven by a desire to accommodate as many units as possible on the site whilst keeping the height of the buildings to a minimum; as a result, I consider that the designs lack a sense of rhythm and coherence. The roofscape would be over complicated, having a variety of different sized dormers, various ridge heights and a central flat section.
50. Similarly, the massing of the buildings would give some of the elevations a somewhat haphazard appearance. The blocks are articulated, with sections projecting out from the central rectangular core of the buildings and these would add interest and depth. However, the location of these seem to have been dictated by the desired plan form rather than being developed in three dimensions and, as a result, some of the elevations, such as the main south elevations of blocks A, B and C and the east elevation of block D, are almost, but not quite, symmetrical. Consequently, they would, I consider, lack both the organic, random feel of an 'Arts and Crafts' style development and the simplicity found in the architecture of the older properties in the village.
51. The close spacing of the buildings and the extent of the hardstanding and car parking space surrounding them would accentuate the fact that this is a high density development. Whilst the Framework gives encouragement to make the best use of developed land, this is not at the expense of design standards and the local context. This site is in a conservation area and the need for a high quality scheme that sits comfortably in its surroundings and respects the historic setting in which it would be located is particularly important.

52. I consider that, in these respects, the proposed scheme would not meet the required standards and would consequently conflict with saved LP policies E1 and E6 and the advice in the Council's adopted Design and Sustainability Supplementary Planning Document 2008. Similarly, it would conflict with the policies set out in chapter 7 of the Framework that requires good design, as it would not respond positively to its surroundings or local character and history.

Conclusions

53. The Council accepts that it cannot demonstrate a 5 year housing supply and the policies in paragraph 14 of the Framework are consequently engaged. The proposals would have the advantage of adding to the housing stock and reducing the shortfall and this is an important factor weighing in favour of the scheme. Some of the Council's concerns about the proposal could be dealt with by condition, as explained above, and other impacts could be offset by the contributions secured through the UU. However, the difficulties of developing the site mean that the scheme would not be viable enough to support the provision of affordable housing and the public benefits of the proposal are consequently limited by this factor.

54. Much of the site is previously developed and there is encouragement in the Framework to make best use of such land, but this is not at the expense of the other environmental, social and economic factors that contribute to sustainable development. The Framework makes clear that all the policies within it must be taken into account when assessing whether a proposal represents such development and I have found that there would be considerable disadvantages in terms of the impact on the character and appearance of the surroundings, the natural and historic environment and the design details.

55. I consider that the weight of the adverse impacts is such that the benefits of the proposal would, in the terms of the Framework, be 'significantly and demonstrably outweighed' and it is not, therefore sustainable development that should be granted planning permission. Therefore, for the reasons given above I conclude that the appeal should be dismissed.

Katie Peerless

Inspector

APPEARANCES

FOR THE APPELLANT:

Michael Bingham	Planning Consultant
Claire Andres	Ecologist, CA Ecology
Paul Allen	Arboriculturalist, Innovation-environmental Ltd
Tom Lowery	Appellant
John Robertson	Architect

FOR THE LOCAL PLANNING AUTHORITY:

Anne Wilkinson	Senior Planning Officer, Basingstoke and Deane Borough Council
Rachel White MSc IHBC	Principal Conservation Officer, Basingstoke and Deane Borough Council
John Dawson MA Dip TP MRTPI	Principal Urban Designer, Basingstoke and Deane Borough Council
Paul Johnston BA (Hons) Dip Landscape MLI	Natural Environment Team Leader, Basingstoke and Deane Borough Council
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Geoffrey Wallace BSc CEng MICE MCIHT MCMi MTPS	Highways Officer, Basingstoke and Deane Borough Council
Ed Rowsell BSc (Hons)	Biodiversity Officer, Basingstoke and Deane Borough Council
Frank Wright	Arboricultural Officer, Basingstoke and Deane Borough Council

DOCUMENTS

- 1 Section 106 Agreement scoping pro-forma for appeal proposal
- 2 Update on Council's housing land supply position
- 3 Consideration of saved policy D9 of the Basingstoke and Deane Borough Council Local Plan
- 4 Daylight factor calculations
- 5 Revised suggested conditions for landscaping and vehicle parking spaces
- 6 Notes of Council's closing submissions
- 7 Notes of appellant's closing submissions
- 8 Signed and dated UU

PLANS

- A Updated site layout 0802/102F showing enlarged cycle stores
- B Plan showing location of bus stops

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