



Appeal Decision

Hearing held on 22 September 2009

Site visit made on the same day

by **Isobel McCretton BA(Hons) MRTPI**

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

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Decision date:
10 November 2009

Appeal Ref: APP/H1705/A/09/2102664

12, 14, 16 & 20 Shyshack Lane, Baughurst, Tadley RG26 5NH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Thomas Homes against Basingstoke & Deane Borough Council.
- The application Ref. BDB/60349 is dated 7 August 2008.
- The development proposed is erection of 9 dwellings (4no. four bed, 2no. three bed and 3no. two bed) following demolition of no. 20 Shyshack Lane with associated access, landscaping and diversion of public right of way (amended to 2 x 4-bed, 4 x 3 bed and 3 x 2 bed).

Application for costs

1. Prior to the Hearing an application for costs was made by Thomas Homes against Basingstoke & Deane Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

2. The appellants have submitted a Unilateral Undertaking which would secure financial contributions towards open space, play areas/recreation, playing fields, community facilities and highways, specifically the implementation of the Basingstoke Environmental Strategy for Transport (BEST). This overcomes the Council's concerns in respect of the additional pressure on such facilities which would result from the proposal. The Council did not pursue this matter further at the Hearing other than to confirm that it considered the submitted Unilateral Undertaking to be acceptable. In my view the Undertaking is necessary to accord with the Council's adopted Interim Planning Guidance *Section 106 Planning Obligations and Community Infrastructure* (2006).

Decision

3. I dismiss the appeal and refuse planning permission for the erection of 9 dwellings following the demolition of 20 Shyshack Lane with associated access, landscaping and diversion of public right of way.

Main Issues

4. The main issues are the effect of the proposed development on the character and appearance of the area, and whether or not the development would be acceptable in terms of risk to the public within the Detailed Emergency Planning Zone surrounding the Aldermaston Atomic Weapons Establishment in

the event of an off-site release of radioactive material following a significant plant fault.

Reasons

5. The appeal site comprises a detached house and garage and other outbuildings situated on a large plot on the north-western side of Shyshack Lane. A public footpath runs diagonally through the site. There have been a number of proposals for the development. Two schemes for 9 dwellings have been refused planning permission and dismissed on appeal¹ and there is an extant planning permission for 6 houses granted in September 2007. These are material considerations in my determination of this appeal.

Character and Appearance

6. The dwellings in Shyshack Lane vary in age and design and there is also considerable variation in the spacing between them. However, to my mind, there is an overall feeling of informality and spaciousness to the loose-knit layout of the road which differs from some of the more planned and densely developed estates in the wider area. The proposed scheme would entail a pair of semi-detached houses on the frontage between the new access and a relocated public footpath (moved to the southern boundary of the site) and a row of 7 houses to the rear - a pair of semidetached houses at the southern end, 2 detached houses at the northern end and a terrace of 3 houses in the middle.
7. The Council takes no issue with the pair of semi-detached houses on the frontage of the site and I agree that this would be in keeping with the character and appearance of Shyshack Lane. The issue is with the houses at the rear of the site. The principal of development in this part of the site was established in the 2007 appeal where the Inspector found that backland development was already a feature of the area (a view with which the subsequent Inspector concurred). That appeal failed because of a lack of provision for local infrastructure. The 2008 appeal failed, principally, because of the minimal spaces between the dwellings at the rear of the site. The proposed design and layout of the scheme in this appeal is an attempt to overcome those concerns. The dwellings have been designed with hipped roofs and the space between them eased, the appellants estimating the gaps to be 1.4m, 2.9m and 3m.
8. The appellants argue that this is comparable to the spacing shown in the extant scheme and more generous than that in the 2007 appeal scheme where character and appearance was not a determining issue. However, both those schemes showed single storey garages at the side of the dwellings in addition, in most cases, to a gap between the properties. In my opinion such a treatment would create more of an impression of space within the development than that proposed in this case where the buildings would all be 2-storey. With the lack of distinctive variation in design of the units and the dominance of hardstandings and turning areas in the within the site, I agree with the Council that the proposed layout would appear regimented and cramped in the context of the varied development in the area when seen in the views into the site from Shyshack Lane and from adjoining properties.

¹ APP/H1705/A/07/2049967 dated 5 November 2007 & APP/H1705/A/08/2078887 dated 8 December 2008

9. The additional hardstanding for refuse collection at the front of the site adds to my concerns about the proposal. Whether or not occupiers would only leave bins there for a minimal amount of time on collection day (and I do not see that this could be guaranteed, for instance bins may well be left during holidays) it would be an unattractive feature at the entrance to the development and in the street scene. I note that the appellants would be willing to consider an alternative location but, given the tight layout, it seems to me that this would be achieved only with further loss of the already minimal landscaping.
10. I accept that Government advice in PPS3² advocates the effective use of urban land. However the guidance, along with that in PPS1³, also stresses the need for respect for the character and local distinctiveness of the area in which development is to take place which I do not consider to be achieved by this proposal. Overall I conclude that the proposal would be detrimental to the character and appearance of the area. As such it would not accord with Local Plan policy E1 which requires, among other things, that development responds to the local context in terms of design, siting, density and spacing, and reinforces attractive qualities of local distinctiveness.

Aldermaston Atomic Weapons Establishment (AAWE) Detailed Emergency Planning Zone (DEPZ)

11. The site is within the 0-3km DEPZ surrounding the AAWE. The general strategy is to prevent a long term net increase in the residential population density within the DEPZ. Such a situation would potentially increase the overall risk to the public in the event of an off-site release of radioactive material following a significant plant fault. A controlled low population zone serves to both mitigate against the consequences of an off-site release, and facilitates emergency preparedness. These are key elements of the defence-in-depth philosophy adopted by the nuclear community world wide. Developments within 8km of the AAWE are subject to consultation with the HSE/NII due to their proximity to a Hazardous Installation under the HSE's Planning Advice for Development near Hazardous Installations (PADHI) regulations. In this case the HSE/NII has responded to 'advise against'⁴ the proposed development because it would result in an increase in population.
12. The demographics of the area were assessed by consultants when the AAWE was licensed in 1997. In line with Government policy on siting at the time, a cautious approach was taken so that it was decided that the Aldermaston site should be treated as a 'remote site' because of the unique nature of the operational activities. A pragmatic approach was taken to the population distribution around the site given the existing population, with the application of 'semi-urban' rather than 'remote site' density criteria to estimate the residual demographic margins for development in the safeguarding zone. The consultation arrangements put in place were that the HSE/NII would be consulted on, among other things, residential applications which resulted in an increase in population of 20 or more people. As I understand the situation, it was not stated, but understood by the HSE/NII, that Council's would monitor

² Planning Policy Statement 3: Housing (2005) (PPS3)

³ Planning Policy Statement 1: Delivering Sustainable Development (2006) (PPS1)

⁴ I note that this constitutes a formal objection on the grounds of nuclear safety and protection of the public.

- the grant of permissions for smaller developments in the context of the low population zone.
13. Following the announcement of the Nuclear Warhead Capability Sustainment Programme by the Government in 2005, a review of the demographics around the AAWE site was undertaken in 2006 and, in 2007, revised consultation procedures were advised, all applications which would result in an increase in population needing to be notified to the HSE/NII. The Council acknowledges that up to May 2008 the revised consultation procedures were not properly implemented in the Borough. It was during this time that 3 applications relating to the appeal site were determined, including the extant planning permission. The Council failed to consult the HSE/NII on any of these proposals or on a number of other applications in the locality where planning permission was subsequently granted for new residential development.
 14. The HSE/NII is concerned that the demographic margins within the DEPZ are approaching unacceptable limits. Comparing the 1995 base data with the National Population Database in 2008, the HSE/NII has found that it is apparent that there has been a significant erosion of the available demographic margins since the site was licensed. It estimates that there has been an overall increase of population in the DEPZ of around 200% in the southern sectors, while in the 30° sector within which the appeal site is situated this increase is nearer 300%. While, at the Hearing, the appellants questioned whether the data had been subject to sensitivity testing e.g. whether it accorded with the Hampshire small area forecasts, there is no substantiated evidence before me to demonstrate that the HSE/NII's view is incorrect. The HSE/NII considers that that the maintenance of a low population zone is the only effective non-engineered means of restricting exposure of the local population to radiation in the event of a potential release of radioactive material into the environment following a significant plant fault, and that it should be maintained for the lifetime of the licensed facility.
 15. I find it somewhat surprising that the issue of restricting population in the DEPZ around the AAWE is not reflected in Development Plan policy which allows for new development in the area. From my questions at the Hearing it appears that the HSE considered that the consultation arrangements would be effective and that their concerns would take precedence over Local Plan policy. However I have seen no evidence, aside from any failure in the consultation procedure which has occurred in the past, that there is systematic monitoring of the smaller developments so that an informed assessment of the overall situation can be made.
 16. New development in the area may not necessarily involve a significant increase in population (e.g. because of the provision of more units but for smaller households), but from the evidence before me it is clear that there has been a material increase in population in the DEPZ. While the appellants argue that the proposed development provides for only 3 more units or an increase in the population of 5 over and above the extant permission, or 18 over the existing situation, it seems to me that it is the cumulative effect of such small proposals which has led to what the HSE now considers to be an unacceptable erosion of the demographic margins.

17. The appellants point out that the Council's decision on this proposal is inconsistent with its approach to the Boundary Hall site where, in July 2009, it was resolved that planning permission should be granted for over 100 houses. As this resolution goes against the advice of the HSE/NII, in accordance with the advice in Circular 04/2000⁵ the application has been referred to the Government Office, though I understand that, as yet, no decision has been made as to whether the application will be called in. At the Hearing it was explained that Members considered the Boundary Hall proposal acceptable, contrary to the Officers' recommendation, for a number of reasons, mainly that it was an allocated site in the Local Plan, there had previously been residential accommodation on the site, and there were significant environmental and community benefits. Moreover the Committee had been informed that, although the HSE/NII had objected to the proposal, the Off-Site Emergency Plan for the area could accommodate the increase in population.
18. The appellants contend that if the Emergency Plan could accommodate the population from that much larger development, then the same must be the case for the appeal proposal which would involve significantly fewer additional people. However, as yet planning permission has not been granted for the Boundary Hall site and the HSE/NII maintains its objection to the proposal. Moreover, in the evidence before me there is no information in respect of the impact of the appeal proposal on the likely functioning of the Off-Site Emergency Plan.
19. The full details of the Boundary Hall scheme are not before me and there may well be other material considerations to be taken into account in that case of which I am not aware. However the need for proper emergency planning is an important material consideration in both that case and in this current appeal. The appellants have argued that the Secretary of State's decision on the scheme for The Oval was a landmark case which shows that the HSE's objections can be set aside if it is demonstrated that the Emergency Plan could cope with the increase in population. Having seen some of the consultation responses on the Boundary Hall application, I note that not all the various parties involved in the management and implementation of the Off-Site Emergency Plan were unequivocal in their support⁶ of that scheme, while others pointed out the additional resource implications of the development but gave no indication as to whether these would be met.
20. In conclusion, while the Local Plan does not preclude new development in this area, there are clearly other material considerations. On the basis of the evidence before me, I am not convinced that there would not be an additional risk to the public within the Detailed Emergency Planning Zone surrounding the Aldermaston Atomic Weapons Establishment in the event of an off-site release of radioactive material following a significant plant fault or that there is good reason to set aside the HSE/NII advice in this instance.

Other Matters

21. Local residents have objected to the additional traffic which would result from the development and have expressed concerns about the level of parking

⁵ Circular 04/2000: Planning Controls for Hazardous Substances

⁶ E.g. email from Hampshire County Council Emergency Planning Officer dated 24 June 2008 and Deputy Contingency Planning Officer, Thames Valley Police dated 17 June 2008

- provision within the development. Their main concern is that additional parking in Shyshack Lane would cause a highway hazard which would be detrimental to highway safety, this being a popular route used by children walking and cycling to and from local schools.
22. 17 parking spaces are shown. This more than complies with the Council's adopted standard when the application was submitted (which would have required 15.5 spaces), and falls just below the newly adopted standard which requires 17.75 spaces. The Highway has raised no objection in terms of parking provision or safety subject to conditions regarding the access and adequate sight lines being provided and retained. I also note that this is not a matter which has been of concern to Inspectors who have considered appeals for similar numbers of houses on the site. There is no substantiated evidence to show that the parking provision would not be adequate, or that the traffic generated by 3 additional houses over and above that which have previously been permitted would have a material adverse effect on on-street parking and or highway safety in Shyshack Lane.
23. Although residents have raised issues about drainage, there is no evidence to show that there is insufficient capacity in the local system: at the Hearing the appellants pointed out that arrangements were already in place for 6 houses. In any event, approval of the drainage would be required to comply with Building Regulations.
24. Natural England initially commented that there would not be a significant effect on the nearby Site of Special Scientific Interest but, after slow worms, a protected species, had been found in the adjoining garden, further consultation took place. Normally a full survey of the impact of the development on biodiversity and any necessary schemes for mitigation would be required prior to planning permission being granted. However there is an extant permission for redevelopment of the site where such a survey/mitigation is not required (though the slow worms would still be legally protected). Therefore Natural England recommended that a condition requiring submission, prior to ground works being commenced, of details of a mitigation strategy based on a recent survey be imposed. While this would not strictly comply with the advice in PPS9⁷, it seems to me to be the most pragmatic approach given the extant planning permission which would mean the site could be developed without any such mitigation strategy.
25. While I do not consider that the appeal should fail in term of parking/traffic, drainage and biodiversity this does not outweigh my conclusions on the main issues.

Conclusion

26. For the reasons given above I conclude that the appeal should be dismissed.

Isobel McCretton

INSPECTOR

⁷ Planning Policy Statement 9 : Biodiversity and geological Conservation

APPEARANCES

FOR THE APPELLANT:

Nik Lyzba Dip TP, Dip CP, MRTPI	The John Phillips Planning Consultancy
Emily Sparrow BA(Hons), MSc, MRTPI	The John Phillips Planning Consultancy
Hugh Thomas	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Rebecca Fenn-Tripp MSc	Planning Officer B & D BC
Georgio Framalico	Development Control Manager B & D BC

INTERESTED PERSONS:

Dr John Highton	Principal Inspector, Nuclear Installations Inspectorate (Health and Safety Executive)
Cllr Mike Bound	B & D BC
Cllr Graham Round	B& D BC
Phillip Cooper	Local resident
Mr Jones	Local resident

DOCUMENTS SUBMITTED AFTER THE HEARING:

Document 1 Bundle of emails/consultation responses relating to the Boundary Hall application.

DRAWINGS:

A1-6 Drawings submitted with the planning application (Location Plan, 754.01-05)
B1-2 Tree Constraints Plan and Tree Protection Plan (6852/01-02)
C1 Drawings showing other developments with close gaps submitted by the appellants