



Appeal Decision

Inquiry opened on 2 June 2009
Site visits made on 1 and 3 June, and
10 August 2009

by **K D Barton** BA(Hons) Dip Arch DipArb
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an Inspector appointed by the Secretary of State
for Communities and Local Government

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Decision date:
2 September 2009

Appeal Ref: APP/Y3940/A/09/2096407

Land off Old Blandford Road, East Harnham, Salisbury, Wiltshire SP2 8NZ

- 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 PNH (Properties) Holdings Limited against the decision of Wiltshire Council.
- The application Ref S/22008/1604, dated 2 September 2008, was refused by notice dated 12 November 2008.
- The development proposed is the erection of three dwellings.

Procedural Matters

1. The application was determined by Salisbury District Council but Wiltshire Council has subsequently become the local planning authority. At the Council's request amended and additional drawings and reports were submitted. It was on the basis of the amended and additional information that the Council reached its decision and on which I have determined this appeal.
2. The Inquiry sat for three days between 2 June and 6 August 2009. On 1 June an accompanied visit was made to the appeal site, 26 Bishops Drive and Folly Close, together with unaccompanied visits to view points in the wider area identified by the main parties. Accompanied visits were made to 32 and 33 Bishops Drive on 2 June, and a further accompanied visit to the appeal site, Bishops Walk and Folly Close was carried out on 10 August 2009.

Decision

3. I dismiss the appeal.

Effect on the Character and Appearance of the Area

4. The appeal site, which has an area of approximately 0.28 hectare, comprises about half of a wood that extends to around 0.55 hectare in total, in an area known as Harnham Hill. The wood is bounded by Old Blandford Road to the south-east. The access to Bishop's Drive, a cul-de-sac, lies to the north-east whilst residential properties and the hammer head at the end of Bishop's Drive adjoin it to the north and west. A mast and associated enclosure lie to the south-west. Development in the area is characterised by 20th century housing separated by lines of trees or small areas of woodland. The houses in Bishop's Drive, from which access would be taken, are located relatively close together creating a continuous line of development.
5. Although the site is within the Salisbury Urban Area, where the principle of development is accepted, it also lies within a designated Housing Restraint

Area (HRA) where saved Policy H19 of the *Salisbury District Local Plan (LP)* indicates that residential development will be acceptable only if certain criteria are met. These include not adversely affecting the character of the designated area, and minimising the loss of features such as trees, hedges and walls that contribute to the character of the area. Paragraph 4.48 of the explanatory text to the policy indicates that whilst development is likely to be limited to a single dwelling there may be occasions when more than one dwelling would be acceptable.

6. Paragraph 4.47 of the explanatory text notes that some HRA's, such as Harnham Hill, are characterised by areas of buildings set in large gardens, possibly containing mature trees, which give the area a 'green' appearance and where the intensification of development would be detrimental to the established character. Notwithstanding the appellant's view that woodland is not characteristic of this HRA, the wood at the appeal site lies roughly centrally within the HRA and lines of trees that separate development in the area radiate from it. The wood also contributes to the prominent wooded ridge in views from the Town Path in Harnham, Salisbury Cathedral Close, and view points from the rising ground on the opposite side of the City. In my view it is unsurprising that the wooded Harnham Slope has been excluded from the HRA as it does not include any significant built development. Indeed, it separates the HRA from the City to the north.
7. The importance of the wood has been recognised in previous appeal decisions. In T/APP/5409/A/82/5258/G9 it was acknowledged that "From a distance the beech wood can be appreciated as a dense block of planting. In my opinion it makes a substantial contribution to the attractive tree dominated skyline". This view was echoed in a later decision granting outline planning permission for 35 dwellings, which led to the development of the houses at Bishop's Drive, (APP/T/3915/A/85/028171/P5) and a condition was imposed stating "Apart from alterations to the existing access to the site from the Old Blandford Road no development shall take place within the beech wood to the south and east of the existing access track from the Old Blandford Road to the BBC relay station".
8. Although these decisions were made some years ago, and the wood is now less characterised by beech trees, I consider that it still contributes significantly to the character of the local area. Indeed, its contribution to local amenity has been recognised by its designation in a Woodland Tree Preservation Order (TPO).
9. It is accepted that the proposal would remove almost all the trees, estimated to be "probably hundreds", within the red line site area amounting to roughly 50% of the wood. Trees to be removed would include about two thirds of the non-native Western Red Cedars which were planted within the wood roughly 30 years ago. These have etiolated trunks and small live crowns and are unlikely to recover even if thinning allowed more light into the wood. Five beech trees within the red line area that are dead, dying, or dangerous would also be removed. Whilst most of the trees to be removed, when categorised individually, are category C or R, I consider that the wood as a whole, which has not been formally categorised, is more important than the sum of its individual parts due to its prominence on the ridge.

10. At its narrowest point the wood would be reduced from some 63 metres wide to only about 17 metres wide. Notwithstanding the existence of banking on the north side of Old Blandford Road, and the presence of some evergreen vegetation along the edge of the wood adjacent to the road, I consider that there would be glimpsed views of the proposed dwellings, particularly in winter, from Folly Close on the opposite side of the road to the wood, and from the short length of footway that runs east to a point roughly opposite the narrowest part of the tree belt that would remain. In my view, this would erode the sense of enclosure provided by trees and vegetation along this part of the road. Whilst the existing houses are not visible in photographs taken in the winter they are further down the slope on the opposite side of the ridge and screened by many more trees in the much wider area of woodland than the proposals would be.
11. From the final section of Bishop's Drive leading to the turning head, and from the middle section where the proposal would be glimpsed between existing houses and garages, the backdrop to development would change. The removal of the broadleaved trees on the woodland edge would expose the etiolated trunks of the remaining exotic evergreen conifers, which it is accepted could be considered 'unsightly', open to view. Conifer plantings within broadleaved woodland are now identified in the Council's *Landscape Character Assessment* as being intrusive, particularly where they occur on skylines, and the planting of these trees would not now comply with saved LP Policy C9, which encourages the planting of indigenous tree species appropriate to the area. The appellant's tree expert states that "Dependence on the western red cedar as woodland cover should be avoided as it will change the character and appearance of the area resulting in exotic evergreen conifers forming the sky line sylvan feature where native deciduous broadleaves should be the order of the day". In my view, the proposal would introduce just such an undesirable situation, at least until new planting became established or regeneration took place which would not be for a significant number of years. The removal of the broadleaved trees on the site would, therefore, be detrimental to the character of the area.
12. The ridge levels of the proposed houses would be approximately 1.6 metres higher than the highest existing ridge level. In middle distance views, including from the Cathedral Close and the Harnham Town Path, the ridges of the proposed houses would be well below the skyline and, in terms of built development, the view of houses against a backdrop of trees on the ridgeline would remain. Turning to long distance views, I do not consider that there would be any significant discernable difference. Indeed, I consider that on all but very clear days a 'haze' would soften the view.
13. Concerns have been raised about wind throw as the wood is on a chalk escarpment where the soil is shallow. The newly exposed trees, having been screened by trees on the edge of the wood, would not have developed as much resistance to wind. Strong winds can cause such trees to fall. The newly exposed trees would be sheltered from the prevailing south-west winds by the retained trees on the southern side of the wood alongside Old Blandford Road. However, there is evidence of wind throw within the wood, and from their position on the ground most of the fallen trees appear to have succumbed to winds from the prevailing direction, despite existing screening. Whilst wind

throw might be an uncommon occurrence, I consider that there might be some casualties which would slightly exacerbate the impact of the proposed felling to create the site.

14. Concern has been raised about protecting the roots of existing trees during construction, as extensive regrading of the ground levels is proposed. Root protection techniques are well established and set out in a British Standard and, in my view, a suitable condition could safeguard the long term well-being of any retained trees close to the rear boundaries of the proposed dwellings.
15. The Council also considers that there would be pressure to lop or fell remaining trees due to the proximity to the proposed houses. However, the houses would be further away from the retained trees than the existing houses currently are from the edge of the wood. Prospective purchasers would be aware of the relationship and, in my view, the Council would be able to legitimately resist unreasonable requests. Whilst a number of trees have been very heavily lopped on Bishop's Walk, to the rear of houses in Bishop's Drive, it is not clear who carried out the works or whether they were authorised. In any event, this situation differs from the proposal as the lopped trees are to the north of the existing houses and it would appear that the main benefit of their removal has been the opening up of a view across Harnham Slope rather than allowing more light into, or prevent dead, dying, or diseased trees being blown towards, the houses.
16. I conclude that the proposal would be detrimental to the character and appearance of the surrounding area, contrary to the aims of Policies C10, C11 and DP1(6) of the *Wiltshire and Swindon Structure Plan 2016* and LP Policies H19(i), C9, G1(iii) and G2(iv).

Effect on Biodiversity and Nature Conservation

17. The trees within the appeal site, and the adjoining blue line area, form the oldest wood in the area. It appears on a tithe map of circa 1840, and on the 1881 Ordnance Survey map, as part of Harnham Folly whilst there are no trees on Harnham Slope on the 1881 map. However, it is accepted that the wood is probably not ancient. Nor is the site designated as a County Wildlife Site, of which there are some 1500, despite being of a sufficient size for consideration. Although the Council's Ecologist considers the habitat to be lowland beech and yew woodland, which is covered by a habitat action plan, the appellant's botanist maintains it does not correspond to any National Vegetation Classification community.
18. Key Principle (vi) in *Planning Policy Statement 9: Biodiversity and Geological Conservation* (PPS9) states that the aim of planning decisions should be to prevent harm. Where granting permission would result in significant harm decision makers should be satisfied that the development could not reasonably be located on any alternative sites that would result in less or no harm. Where there are no alternatives, adequate mitigation measures should be put in place and where harm cannot be prevented or mitigated against appropriate compensation measures should be sought. If harm cannot be prevented, mitigated against, or compensated for, then planning permission should be refused.

19. In terms of flora, a substantial number of the exotic cedars would be removed, as well as native species, but numerous native species would be planted and there would be some regeneration. There is little shrub-layer and virtually no field-layer, other than ivy, under the cedar and yew in the wood. Under the maple and beech trees on the embankment adjacent to Old Blandford Road and the eastern part of the site the field-layer is more varied and there is more of a shrub-layer. There are more species at the edges of the wood where there is more available light. However, all the species identified in surveys are common in the area. Few ancient woodland indicator species were found and some of those were in the blue line area rather than on the appeal site. Most were found around the edge of the wood where they could have come in by chance. In any event, these species are not themselves protected but are indicators to the character of the woodland.
20. Turning to fauna, there are no badger setts on the site and badgers would still be able to forage across the retained area of trees, which is where the major signs of badger activity have been found. No bats were recorded within the wood, although Serotine and Pipistrelle bats were seen foraging on the wood edge. Feeding along the edge of the wood would still be possible, although the edge would be further south. There are some possible roosting sites in trees within the wood but, possibly due to the timing of the survey, there was no evidence of roosting. Other surveys at different times of the year might produce different results. However, bat boxes could be provided to mitigate against the loss of any roosting areas.
21. The site is noted as being sub-optimal for dormice, although there is some bramble that would provide a feeding opportunity. Moreover, only one instance of a dormouse has been recorded in the area and that was around 0.8 kilometre away to the north-west on Harnham Slope and it is accepted that dormice would be unlikely to use the site for much of their lifetime. Consequently I do not consider that there would be any significant harm to dormice.
22. Sixteen species of bird were noted in a survey, although its timing would have meant winter and migratory birds being 'missed'. Whilst the Council maintains that the number of bird species at other times of year might approach the lower end of the numbers required for the site to be of local interest, none of the species noted were rare or special. Bird species identified on or near the site are generally common garden birds. However, the reduction in the width of the wood would reduce the feeling of seclusion that is enjoyed by some secretive, albeit common, birds such as Tawny Owls which have been observed on the site.
23. It is agreed that the site is generally not suited to reptiles and it is unlikely that there would be stag beetles on the site as they are very rare in Wiltshire. Even if stag beetles were present, the impact on them could be mitigated by leaving dead stumps and dead wood within the retained woodland, although I note that this might hinder management of the wood. The existing wood has a high proportion of dead wood in which, together with fungi, supports specialist invertebrates and increases the food resource for birds and animals.
24. I accept the broad principle that small areas of habitat can support higher species assemblages if they are linked to other areas by corridors of suitable

habitat. Whilst the appellant considers that the site is relatively isolated, aerial photographs show that it forms part of a network of gardens, hedgerows and mature trees within the Harnham Hill area. This network of corridors such as tree canopies that meet above roads, and lines of trees and hedgerows, link to small blocks of habitat such as gardens, ponds and woods. I accept that the extent of some habitats would be reduced but none of the species identified as being on the site are rare and little evidence has been submitted to justify the assertion that the loss of approximately half the wood would lead to the loss of any individual species from the site.

25. I conclude on the evidence available that whilst the proposal might have slight negative impacts on some species, adequate mitigation could be required such that there would not be any significant harm. The proposals would therefore comply with PPS9 Key Principle (vi) which is generally reflected in Policy C3 of the *Wiltshire and Swindon Structure Plan* and LP Policy C11. Regard has been had to the purpose of conserving biodiversity as required by Section 40(1) of the *Natural Environment and Rural Communities Act 2006*.

Other Matters

26. It was accepted that compared to a 'do nothing' baseline the proposal would not have a positive impact although any impact could be significantly reduced by management of the remaining woodland. It is suggested that beneficial management could be provided by means of a Section 106 Undertaking, but little detail of its funding or who would determine management policy has been provided. In my view, occupiers of the proposed houses would have little incentive to fund active management. It was accepted that the reduced woodland, without active management, would not compensate for the loss of the trees.
27. I accept that the individual trees within the blue line area are in a better condition than those within the red line area and that the gradual replacement of the conifers by native species would be desirable. However, in my view it is the cumulative effect of the trees that contributes to the character of the area. Whilst the wood would change over time, I agree with the Council's expert that even without proactive management there would not be any significant decline in the next 20-40 years. Indeed, it is accepted that, except for beneath the conifers, there is an understorey of natural regeneration including native species or species long established in the area. It is suggested that lawful public access to the wood could be secured as part of the management plan but an indicative plan shows only a very short circular path, which in my view would be a very limited benefit.
28. The site is in a sustainable location being within 100 metres of bus stops and within 1 kilometre of the city centre where there is an extensive range of shops, community facilities and employment opportunities. It is agreed that the proposed housing mix and density, and the architectural design of the houses, would be characteristic of Bishops Drive.
29. The Wiltshire Council Annual Monitoring Report 2007/8 indicates that Salisbury District has under-delivered in terms of housing provision since 2006. Only 833 dwellings have been completed, some 407 behind the cumulative target in two years. The report also indicates that some 47% of completions in

Salisbury come from windfall sites such as the appeal site. Notwithstanding this fact, I do not consider that the provision of three houses, together with the other claimed benefits above, would outweigh the harm the proposal would cause to the character and appearance of the area.

30. Whilst residents have raised concerns about access and parking I note that the highway authority did not raise any objection and I see no reason to reach a different conclusion. Although the site would be slightly elevated above the existing houses in Bishop's Drive, the separation distance of the proposed dwellings from the existing would be sufficient in my view to preclude any adverse impact on the living conditions of the occupiers of the existing houses in terms of outlook, overshadowing or privacy.
31. LP Policy R2 requires provision to be made for recreational open space. Where this cannot be provided on-site, the Council operates a tariff system for contributions towards provision nearby. The Council withdrew it reason for refusal relating to the provision of recreational open space on the basis of a Section 106 Undertaking which includes provision for payment of an agreed contribution plus an administration fee. The Undertaking requires the contribution to only be used in connection with facilities on land certified by a Director of the Council as being directly relevant to the proposed development and, if not used within an agreed timescale, for the contribution to be repaid. However, little evidence has been submitted to demonstrate that there is a shortfall of recreational open space, or how the tariff figure has been arrived at, and it is not therefore clear whether the contribution is necessary or fairly and reasonably related in scale and kind to the proposed development as *Circular 05/2005* requires. However, I do not consider this would justify dismissing the appeal.

Conclusion

32. Notwithstanding the claimed benefits and my conclusions on biodiversity, nature conservation, access and parking, outlook, overshadowing and privacy, and provision of recreational open space, I consider the detrimental impact the proposal would have on the character and appearance of the area to be the determining factor in this case.

K D Barton

INSPECTOR

DOCUMENTS SUBMITTED AT THE INQUIRY

- 1 Council's letter of notification of the Inquiry and a list of those notified.
- 2 Rebuttal Proof of Evidence on dead wood submitted by Mr Allen
- 3 Statement of Common Ground
- 4 Annotated Plans submitted by Mr Verrion
- 5 Unilateral Undertaking dated 2 June 2009
- 6 Council's Opening Statement
- 7 Extract from Guidelines for Landscape and Visual Impact Assessment submitted by Mr Harley
- 8 Extract from Wiltshire Woodland Habitat Action Plan submitted by Ms Kilgallen
- 9 Ancient Woodland Indicator Species List submitted by Ms Kilgallen
- 10 Criteria for selection of County Wildlife Sites in Wiltshire
- 11 Appeal Decision APP/Y3940/A/09/2101663 Bath Road, Devizes
- 12 Notes of comments made by Mr Lapscombe
- 13 Photographs of trees on Bishops Walk submitted by Mr Lapscombe
- 14 Council's Outline Closing Statement
- 15 Appellant's Outline Closing Statement
- 16 Proposed amendment to wording of suggested condition 6