
Appeal Decisions

Site visit made on 25 October 2016

by Andrew Owen BA(Hons) MA MRTPI

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

Decision date: 16 November 2016

Appeal A: APP/N0410/W/16/3154869

Land to rear of 34 Oak End Way, Gerrards Cross, Buckinghamshire SL9 8BR

- 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 Neil Jarvis of Hughes Jarvis Ltd against the decision of South Bucks District Council.
- The application Ref 15/02053/FUL, dated 24 October 2015, was refused by notice dated 21 January 2016.
- The development proposed is the demolition of existing outbuildings and replacement with 3 self contained dwellings, 15 vehicle parking system and associated external works.

Appeal B: APP/N0410/W/16/3154826

34-36 Oak End Way, Gerrards Cross, Buckinghamshire SL9 8BR

- 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 Neil Jarvis of Hughes Jarvis Ltd against the decision of South Bucks District Council.
 - The application Ref 15/02239/FUL, dated 17 November 2015, was refused by notice dated 21 January 2016.
 - The development proposed is the demolition of existing building and replacement with 4 self-contained dwellings and associated external works.
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Decision

1. Appeal A is dismissed.
2. Appeal B is allowed and planning permission is granted for the demolition of existing building and replacement with 4 self-contained dwellings and associated external works at 34-36 Oak End Way, Gerrards Cross, Buckinghamshire SL9 8BR in accordance with the terms of the application, Ref 15/02239/FUL, dated 17 November 2015, subject to the conditions in the attached Schedule.

Preliminary Matters

3. The address given on the application form for the planning application subject of Appeal B was 34-36 with 42 and 44 Oak End Way. However it is clear that although the appellant owns Nos 34, 36, 42 and 44, this appeal relates solely to No 34 and 36. As such I have used this correct address in the header above.
 4. At the time of my site visit construction work was nearing completion on the provision of a building on the site subject of Appeal A. This building appears to
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be that granted planning permission, ref 13/02153/FUL, and which will accommodate two apartments.

5. An informative attached to the Council's decision subject of Appeal B states that the development overhangs the site boundary, but the landowners of this adjacent land have not been formally notified of the application. Certificate B was signed in connection with this appeal, and this appears to address this matter.

Main Issues

6. The main issues are:
 - whether the amount of parking to be provided for future residents would be appropriate (Appeal A);
 - the effect of the proposal on the character and appearance of the area (Appeal A);
 - whether the developments should make provision for affordable housing (Appeals A and B); and
 - whether the proposals would be likely to act as a precursor for similar development (Appeals A and B).

Reasons

Parking (Appeal A)

7. The proposal would provide 15 car parking spaces in a tiered, mechanised car parking system, and three flats. The Council suggest six spaces would be sufficient to serve the flats.
8. It is considered that 15 spaces would represent a significant over provision of parking. Such an over provision would not compromise highway safety in the way that an under provision might, and it would not impact on the effective development of the site. However, the level of parking proposed would not align with the aim of reducing the dependence on the car as described in the explanatory text to Policy TR7 of the South Bucks District Local Plan (the 'Local Plan') and the Interim Residential Parking Standards, particularly when considering the site's town centre location and proximity to public transport services.
9. It has not been suggested to me that the parking block would provide parking for the future occupiers of the development subject of Appeal B. Indeed, in any case, it would not be possible to impose a condition to ensure this as the developments are in different sites. Nor would it be possible to reduce the amount of parking by condition as this would necessitate a redesign of the car parking system which would be a material amendment.
10. Accordingly the development subject of Appeal A would fail to comply with Policy TR7 of the Local Plan and the Council's Interim Residential Parking Standards which require development to provide an appropriate and sustainable amount of car parking.

Character and Appearance (Appeal A)

11. The Council consider that the proposed car parking system would harm the character and appearance of the area. This car parking system would be

- housed in a functional, flat roofed building measuring around six metres in height.
12. The building would be located at the rear of the site and would be in an area which is generally characterised by the rear service areas of the commercial units fronting Oak End Way, Station Road, and Packhorse Road. The area generally comprises open areas for parking or storage, or single storey buildings ancillary to the main commercial units. However, the development at Oakridge Place, at Nos 44 to 54 Oak End Way, extends to the rear of its site in a position comparable to the proposed car park building, and is three storeys in height. This building, together with the four storey buildings at Gerrards House and Waitrose on Station Road, and the three storey buildings which front Station Road, Packhorse Road and Oak End Way, creates, at the site, a sense of enclosure and a degree of isolation from the wider townscape.
 13. The South Bucks Townscape Character Study refers to tightly formed commercial centres, such as that where the appeal site is, and advises that building heights should relate well to the predominant heights in the area and should follow the pattern of existing townscape. The development would be subservient in its height and scale to the more visually dominant buildings in the vicinity and be comparable to Oakridge Place in terms of its form, height and position at the rear of its plot. It would also be similar in height to the frontage building at Nos 34-36 and the building under construction just behind it.
 14. Though the building would be visible from Oak End Way, such views would be limited and from this position it would primarily be seen against the backdrop of the prominent rear face of Gerrards House. Furthermore, from within the site and from the other properties in the area, the building would be seen in the context of the rear elevations of the large frontage buildings. Accordingly, whilst the development would have a functional form and appearance, it would not detract from the character and appearance of the area or the wider townscape.
 15. The site is close to the boundary of the Gerrards Cross Centenary Conservation Area (GCCCA). Though there is some intervisibility between the appeal site and the GCCCA, it is limited. Moreover the significance of the GCCCA results mainly from the buildings and their relationship with the public streets, not from the rear elevations of the commercial buildings or its wider setting. Accordingly, the development would not harm the setting of the GCCCA or the ability of the public to appreciate its significance.
 16. In conclusion, I consider the parking building would not harm the character and appearance of the area. As such the development would accord with policies EP3 and H9 of the Local Plan which aim to ensure development is compatible with the locality in general. Although the site is not within the GCCCA it would nonetheless preserve the setting of this heritage asset as required by Policy C1 of the Local Plan and Core Policy 8 of the Core Strategy.

Affordable housing (Appeals A and B)

17. Core Policy 3 (CP3) of the South Bucks Core Strategy advises that on schemes of five units and above, or on sites of 0.16 hectares (ha) and above, at least 40% of all dwellings should be affordable. The proposal subject of Appeal A is for three units, that subject of Appeal B is for four units, and from the

information given on the application forms, both sites are below 0.05ha in area. When considered individually, these developments would not trigger the need for affordable housing as set out in CP3. However this policy adds that where small sites are demonstrably part of a larger site, affordable housing would be sought where less than five units are proposed or the sites are less than 0.16ha.

18. The two appeal sites are adjacent to each other, are within the same ownership and share the same point of vehicular access. As such the two sites could be considered as part of a larger and comprehensive development site. If so, although the two sites combined would still be below the 0.16ha threshold, the provision of seven dwellings would trigger the need for 40% of the units to be affordable as set out in CP3. The appellant does not propose any affordable housing in either scheme and so the proposals conflict with the development plan in this regard.
19. However, I have had regard to the Court of Appeal's judgement¹ of 11 May 2016 on the Secretary of State's appeal against the previous High Court judgement of 31 July 2015. This High Court judgement upheld a joint application by West Berkshire District Council and Reading Borough Council which challenged the Secretary of State's Written Ministerial Statement (WMS) of 28 November 2014 and his subsequent alterations to the Planning Practice Guidance (PPG) on planning obligations for affordable housing and social infrastructure contributions.
20. The effect of this Court of Appeal judgement is that the WMS should once again be considered as national planning policy defining the specific circumstances where contributions for affordable housing, such as that requested by the Council in this case, should not be sought. This includes from small scale development which the WMS and the PPG define as less than 10 units or less than 1000 square metres of floor space. As such, I do not consider CP3 accords with this national policy and therefore it is out of date and can be given little weight.
21. If aggregated, the developments would provide less than 10 units and, though I have no details of the floorspace to be provided, it has not been suggested to me that the combined floorspace would exceed 1000 square metres. Accordingly, from the evidence before me, the proposals, even if aggregated, would constitute small scale development as defined by the PPG. As such it is not necessary for the developments to provide contributions to affordable housing.
22. I note the Council's concerns that the site could accommodate 10 units or more if it was more efficiently developed, and that this is demonstrated by a previous proposal for 10 units² which was not considered to constitute overdevelopment. However that scheme does not benefit from planning permission so I can give little weight to it as a fall back position. Notwithstanding this, I do not consider the provision of seven units on a site totalling 645 square metres³ would represent an inefficient use of the site, and instead would be a density commensurate with its town centre location. Also, although Nos 42-44 are

¹ Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council C1/2015/2559; [2016] EWCA Civ 441

² 15/00632/FUL

³ Calculated by adding the site areas given on the two application forms

owned by the appellant, that site already has planning permission for six apartments which can be implemented independently of the schemes before me, and therefore could not contribute at this time to a comprehensive development of the area.

23. Consequently although the developments would, if aggregated, fail to accord with CP3, they would fall short of the threshold in the PPG and therefore are not required to make a contribution to affordable housing.

Precedent (Appeals A and B)

24. The Council consider the developments could lead to further applications for piecemeal development along Oak End Way or in Gerrards Cross which would circumnavigate the need to provide contributions to affordable housing.
25. As set out above, even if the sites are seen together, the proposals would not be required to provide affordable housing contributions as advised by the PPG, and so therefore cannot act as a precedent for development which would not accord with national planning policy. Furthermore, notwithstanding the fact that each case must be dealt on its own merits, I have not been provided with any specific sites comparable to these before me, and a generalised concern of this nature would not be sufficient to withhold planning permission in this case.
26. Consequently I do not consider the proposals act as precedents for development which would be contrary to national planning policy.

Other matters

27. Regarding the concerns that the development would obscure the private right of way or prevent funeral cars from reaching the rear of No 38, the plans show access would be maintained to the rear of No 38 and the access point onto Oak End Way would not be any more restrictive than which exists at present. Also, the maintenance of private rights of way are a private matter for the parties concerned.
28. Although overlooking to No 38 would be possible if the flat roof at the back of the building in Appeal B was used as outdoor amenity space, a condition can be imposed to prevent this. Accordingly I do not consider the development in Appeal B would result in unacceptable effect on the living conditions of any adjacent property.

Conditions

29. In allowing Appeal B and granting planning permission, I have considered those conditions suggested by the Council against the requirements of the PPG and the National Planning Policy Framework (the 'Framework'). Where necessary and in the interests of clarity and precision, I have altered the conditions to better reflect this guidance.
30. In accordance with the requirements of the PPG and the Framework I have imposed, the standard condition relating to the commencement of development, a condition specifying the relevant plans in order to provide certainty, and conditions relating to construction and finishing materials and waste storage details in the interests of preserving the character and appearance of the area. Also I have attached a condition preventing the

insertion of additional windows, and the use of the first floor flat roof area as amenity space to protect the privacy of nearby residents.

31. Some conditions require compliance prior to the commencement of development so that the effects of the proposal are properly mitigated for in order to make the development acceptable.

Conclusions

32. In the case of Appeal A, the development would not harm the character and appearance of the area, would not be required to provide affordable housing and would not create a precedent. Nonetheless these factors do not outweigh the conflict the development would have with the sustainable principles enshrined in the Local Plan by reason of its overprovision of parking. As such, for these reasons, and taking account of all other considerations, I conclude that this appeal should be dismissed.
33. In the case of Appeal B the development would not be required to provide affordable housing and would not create a precedent. As such, for these reasons, and taking account of all other considerations, I conclude that this appeal should be allowed.

Andrew Owen

INSPECTOR

SCHEDULE

Conditions relating to APP/N0410/W/16/3154826

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1544 001, 1544 100, 1544 101, 1544 200, 1544 201, 1544 400 and 1544 401.
- 3) No development shall commence until samples or a specification of the finishing materials to be used in any hard surfacing of the site have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No development shall commence until samples or a schedule of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows shall be inserted at or above first floor level in any of the elevations of the development hereby permitted.
- 6) The flat roof area at first floor level, as shown on drawing No. 1544 201, shall not be used as a balcony, roof garden or similar amenity area.
- 7) Notwithstanding any indications illustrated on drawings already submitted, no development shall take place until there has been submitted to and approved by the District Planning Authority in writing a scheme for the siting of either 4 x 360L bins or 1 x 1100L bin for refuse, 4 x 360L bins for mixed recycling, 1 x 240L bins for paper recycling and 1 x 140L bin for food waste within the site in accordance with the requirements of the Council's Refuse and Recycling section. Thereafter the development shall be completed and maintained entirely in accordance with the approved details.