



Appeal Decisions

Site visit made on 27 November 2017

by Robert Fallon B.Sc. (Hons) PGDipTP MRTPI

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

Decision date: 21st December 2017

Appeal Ref: APP/X0415/W/17/3181798

9 Berkeley Avenue, Chesham, HP5 2RN

- 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 and Mrs Turner against the decision of Chiltern District Council.
 - The application Ref CH/2017/0480/FA, dated 15 March 2017, was refused by notice dated 24 July 2017.
 - The development proposed on the appeal form is described as "Erection of a new dwelling on land at 9 Berkeley Avenue with pedestrian access".
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a new dwelling with pedestrian access at 9 Berkeley Avenue, Chesham, HP5 2RN in accordance with the terms of the application, Ref CH/2017/0480/FA, dated 15 March 2017, subject to the conditions set out in the attached schedule.

Application for costs

2. An application for costs was made by Mr and Mrs Turner against Chiltern District Council. This application is the subject of a separate Decision.

Procedural matters

3. The development description on the application form does not correspond with the decision notice or appeal forms and also does not accurately describe the proposed development. I have as a consequence used the description shown on the appeal form and am satisfied that this has not prejudiced the interests of any party.
4. The Council and appellant state that the plans were amended during the formal application. For the avoidance of doubt and in view of the fact that there does not appear to be any dispute between the Council and appellant on this matter, I have proceeded on the basis that the plans under consideration in this appeal are Drawing Nos GA.01 Rev G, GA.02 Rev J, GA.03 Rev I and GA.04 Rev J and am satisfied that this has not prejudiced the interests of any party.
5. The appellant has drawn my attention to 3 previous appeals¹ for residential development at the site. However, because these are not directly comparable to the current proposal in terms of design, scale, form, access, parking and siting, I have given them limited weight in my assessment. In any event, I must consider the appeal scheme on its own merits.

¹ APP/X0415/A/08/2087026 dated 20 April 2009, APP/X0415/A/12/2173291/NWF dated 10 September 2012 and APP/X0415/W/15/3140559 dated 27 April 2016

6. The Council has referred to a Waste Management Planning Advice Note prepared for Chiltern District Council and Wycombe District Council. Although helpful to prospective applicants, it has not been adopted as a supplementary planning document and I am not aware of it being subject to public consultation. I have accordingly given it limited weight in my assessment.
7. Although the Council has referred to Policy TR15 of the Local Plan² in its appeal statement, this was not included in the reason for refusal. However, this policy is not in any event applicable to the proposal as it relates to the design of new car-parks and parking areas in developments, which are not proposed in the current scheme.

Main issue

8. The Council has raised no concerns regarding: (a) the design, form and scale of the dwelling; (b) its impact upon the living conditions of neighbouring occupiers; and (c) the lack of off-road parking facilities and the resultant impact upon the local highway network. Accordingly, within the context of the Council's reason for refusal and the evidence in this case, the main issue is living conditions for future occupiers of the dwelling, with specific regard to:
 - its proximity to the bin collection point
 - its proximity to on-street parking
 - privacy
 - whether it would be accessible, particularly to those with disabilities and meet 'Lifetime Homes' standards.

Reasons

Appeal site context

9. The appeal site is laid to grass and forms the south-eastern half of the rear garden to No 9 Berkeley Avenue, a mature bungalow that has been extended into its roof space. Berkeley Avenue is characterised by grass verges, street trees and mature 2-storey detached and semi-detached houses, chalet bungalows and bungalows. A large proportion of dwellings on the street have off-road parking within their curtilage.

Living conditions for future occupiers

10. The Council states that on-road parking would not be conveniently located for future occupiers as it would be too far away from the proposed dwelling. However, even if the dwelling was nearer the road, there is no guarantee that its occupants would benefit from close proximity to their parked vehicles due to it being a public highway with unrestricted parking. In any event, based on the evidence before me and my observations on-site, I do not consider the highway to be so congested with parked cars that future occupiers would have to regularly travel long distances to find a space. I am as a consequence satisfied that any vehicles parked on the road would be in reasonable proximity to the proposed dwelling and not harm the living conditions of future occupiers.
11. The Council states that the bin collection point would be at least 40 metres from its storage area and that the development would as a consequence fail to accord with

² Chiltern District Local Plan, Written Statement, Adopted 1 September 1997 (including alterations adopted 29 May 2001), Consolidated September 2007 and November 2011

the guidance contained in the Council's Waste Management Planning Advice Note and the Manual for Streets³, which both make reference to a 25 metre standard. However, given the broadly level nature of the site and that household waste would only have to be carried to the collection point once a week, I would not consider the additional 15 metres to be so inconvenient to future occupiers as to harm their living conditions.

12. Further concerns are raised by the Council that No 4 Dorney End ('No 4') would compromise the privacy of future occupants of the dwelling, by reason of overlooking from its rear elevation. However, No 4 does not directly face the rear elevation and garden of the proposed dwelling, and any views from it are primarily towards its own garden. Furthermore, the proposed dwelling would have no roof lights or dormer windows to its south-west (side) or south-east (rear) elevations that would otherwise be easier to see into from the rear elevation of No 4. I am as consequence satisfied that future occupants of the dwelling would benefit from a satisfactory level of privacy.
13. The Council also states that despite the dormer window to No 9b Berkeley Avenue being connected to a non-habitable room, that it would create a perception of overlooking that would be harmful to the living conditions of future occupiers. However, in view of this window being faced with obscure glass, I am satisfied that such a perception would be unlikely, but even if this did occur, that it would not be sufficient to warrant refusal.
14. The Council states that the proposal would not comply with Policy CS20 of the Core Strategy as it has not been designed in accordance with 'Lifetime Homes' principles. However, this policy merely states that the Council will 'encourage' new dwellings to be designed to this standard and hence it is not a mandatory requirement. Furthermore, the proposed development would be accessed via a broadly level gradient from the highway and all its living accommodation, save for one bedroom and an ensuite bathroom or store room, would be at ground floor level. In view this, I have concluded that the scheme would be user friendly and highly accessibility to those with disabilities.
15. In view of the above, I have concluded that the development would function well as a residential dwelling and not be harmful to the living conditions of future occupiers. The proposal would as a consequence comply with Policies GC1 and GC3 of the Local Plan and Policy CS20 of the Core Strategy⁴, which cumulatively seek, amongst other things, to ensure good standards of amenity and accessibility for future occupiers of new development.
16. The Council states that the development would result in environmental harm as a consequence of its poor functionality for future occupiers and therefore fail to comply with the Framework's⁵ definition of sustainable development. However, for the reasons identified above, I am satisfied that the development would result in a good standard of amenity for future occupants and integrate well into its built environment and therefore comply with Paragraphs 17 (bullet point 4) and 61 of the Framework.

³ Paragraph 6.8.9 of the Manual for Streets, Department for Communities and Local Government and Department for Transport, 2007

⁴ Core Strategy for Chiltern District, adopted November 2011, Chiltern District Council

⁵ National Planning Policy Framework, Communities and Local Government, March 2012

Other matters

17. I note the Council's concern in respect of potential precedent, but each proposal must be considered on its own merits. In any case, I have concluded that the scheme complies with the relevant development plan policies.
18. Representations have been made that the development would harm the living conditions of neighbouring occupiers at No 4 by reason of it being visually overbearing. However, I am satisfied that this would not be the case as it would be of a similar height to the adjacent property at No 9b Berkeley Avenue and be set approximately 2.4 metres inside the boundary with No 4, which would as a consequence minimise its visual impact.
19. Representations have been made that the development would harm the living conditions of neighbouring occupiers at No 9b Berkeley Avenue by reason of loss of light and a reduction in sunlight received by its solar panels. Whilst I acknowledge that the development would interrupt some direct sunlight to No 9b late in the day because of its position to the west of this dwelling, I am satisfied that this loss would be minimal and not cause sufficient harm to warrant refusal.
20. Further representations have been made that the development would compromise the privacy of neighbouring occupiers at No 4, Nos 9b and 11 Berkeley Avenue and Nos 3 to 9 Berkeley Close. However, I am satisfied that because of the intervening distances involved and the orientation of the proposed dwelling's first floor bedroom window, that the development would not result in any significant overlooking of the above properties or their rear gardens.
21. Representations have also been made that the development has no off-road parking spaces, which would result in additional on-road parking to the detriment of highway safety. However, the Council and Local Highway Authority did not raise any concerns in respect of this and I see no reason to take a different view given the good highway visibility I observed at my site inspection.
22. Concerns have been raised by third parties about the lack of access to the site by emergency vehicles. However, I am satisfied that there would be adequate pedestrian access for paramedics, who could if necessary transfer patients to an ambulance on the highway by wheelchair or stretcher. In terms of access by fire engines, the scheme would be required to comply with the Building Regulations, which is a separate regulatory process. However, given the site's close proximity to the road and the lack of any objections from the Local Fire Authority, I am satisfied that suitable access to the site could be achieved by the fire service in the event of an emergency.
23. Representations have also been made that the location of the dwelling's new patio area would erode the peace and quiet enjoyed by neighbouring occupiers in their rear gardens. However, I am satisfied that the level of noise generated by future occupants would be consistent with the surrounding residential area and that any significant disturbance could be suitably controlled under other legislation.

Conditions

24. The Council has suggested conditions which I have considered in the light of the Framework and National Planning Practice Guidance. I have made some small amendments to clarify certain details and ensure the development is acceptable. A condition requiring development to be in accordance with the plans is needed for the avoidance of doubt and in the interests of proper planning. Given the need to successfully integrate the development into the local environment and ensure a satisfactory surface that minimises noise, a condition relating to external materials

and surface materials is necessary. A condition has also been proposed to ensure that the boundary treatment shown on the approved plans is installed prior to occupation to protect the living conditions of future and neighbouring occupiers.

25. Furthermore, given the development's close proximity to other dwellings, I consider there to be adequate justification to remove permitted development rights for all extensions, alterations, roof extensions and roof alterations to the dwelling. A condition has also been imposed for details of ground floor levels to minimise its visual impact upon the surrounding area and protect the living conditions of neighbouring occupiers. However, in view of the plot being screened from the public realm, I do not consider it necessary for a condition to be imposed for a bin storage enclosure.

Conclusion

26. I have concluded that the proposal accords with the development plan and would provide adequate living conditions for its future occupiers. In view of this and having had regard to all other matters raised, I conclude that the appeal should be allowed.

Robert Fallon

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:- Drawing nos. GA.01 Rev G, GA.02 Rev J, GA.03 Rev I and GA.04 Rev J.
- 3) No development shall take place until samples of all external facing materials and surface materials for the pedestrian access have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details.
- 4) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floor of the proposed building, in relation to existing ground levels, have been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved levels.
- 5) The dwelling hereby permitted shall not be occupied until the boundary treatment shown on approved drawing no. GA.02 Rev J has been installed.
- 6) 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 external alterations, extensions, roof extensions, roof windows or roof lights (aside from that shown on the approved plans) shall be installed or constructed on any part of the dwelling hereby approved without the specific grant of planning permission.

End of schedule