The Planning Inspectorate

Appeal Decision

Site visit made on 29 August 2019

by K Stephens BSc (Hons), MTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 October 2019

Appeal Ref: APP/A1910/W/19/3231097
The Royal Oak, The Street, Chipperfield, Hertfordshire WD4 9BH

- 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 Jon Crawley of Benley Developments Ltd against the decision of Dacorum Borough Council.
- The application Ref 4/02423/18/FUL, dated 25 September 2018, was refused by notice dated 20 December 2018.
- The development proposed is described as 'Proposed erection of 5no. 3 bedroom 4/5 person family dwellings in a staggered terrace block with associated car parking (12no. spaces) and landscaping on the existing car park site serving the Spice Village Restaurant, Chapel Croft, Chipperfield. Separate car parking provision to be made for the Spice Village restaurant (12no. spaces) with reinstated access off Chapel Croft.'

Decision

1. The appeal is allowed and planning permission is granted for the erection of 5no.3 bedroom terraced dwellings with associated car parking (14no. spaces) and landscaping and with separate car parking provision for the Spice Village restaurant (12no. spaces) with reinstated access off Chapel Croft, at The Spice Village, The Street, Chipperfield, Hertfordshire WD4 9BH in accordance with the terms of the application, Ref 4/02423/18/FUL, dated 25 September 2018, subject to the conditions in the attached schedule.

Procedural Matters

2. The application form names the appellant as Mr Jon Crawley whilst the appeal form names Mr John Crawley. Following clarification, Mr Jon Crawley is confirmed as the appeallant.

3. The site address in the banner heading is taken from the application form, but it differs from the address used on the appeal form and decision notice. However, is clear from the submitted evidence and my site visit that The Royal Oak public house is now re-named and in use as the Spice Village restaurant. Therefore, to avoid confusion I have used the Spice Village in the address above.

4. The description of the development in the banner heading is taken from the application form, but differs from the Council's description. It is clear from the plans, appeal form and documentation that the scheme has been amended and both descriptions are inaccurate with regards to the number of parking spaces. The Council's overall description is simpler and adequately describes the proposed development instead of the more detailed description given on the

application form. I have combined the two, removing unnecessary words, and have amended the parking numbers.

5. There is a 'fallback' position for the grant of full planning permission[1] for the construction of 4 x 3bed dwellings with associated parking for the houses and parking for the Royal Oak (Spice Village restaurant). From the information provided to me the fallback scheme would be similar in layout, design and appearance to the appeal proposal in that the houses would be aligned as a staggered terrace of 4 dwellings with rear gardens and set back from the road behind front gardens. The existing pub car park entrance off Chapel Croft would be used to provide a shared driveway for the dwellings that would lead to a residents' parking area at the rear for the site with 12 spaces. A new access off Chapel Croft would be created closer to the Spice Village restaurant leading to its own separate car park with 13 spaces.

6. I have no evidence before me that the 'fallback' scheme could not be progressed and implemented. Seeing the similarities between the schemes I have no reason to doubt the fallback development would not be technically possible. Therefore, there is a more than theoretical possibility that the fallback consent could be progressed and implemented. This is a material consideration in the overall balance, to which I attach significant weight.

Main Issues

7. The main issues are:

   - Whether the proposal would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework ('the Framework') having regard to the nature of the development and its effect upon the openness of the Green Belt, and

   - Whether the proposal amounts to poor quality design, with particular regards to layout, access arrangements and landscaping.

Reasons

8. The site occupies a prominent location close to the crossroads junction in the village, which is located in the Metropolitan Green Belt. It is currently laid to hardstanding and serves as the customer car park for the Spice Village restaurant. The site sits between the Spice Village restaurant and a recently constructed terrace of houses on Chapel Croft (named Chantry View). The site backs onto the Baptist Methodist Church and The Manse and the garden of the listed White Cottage. Opposite the site is a car sales garage with an extensive forecourt displaying cars for sale and which is elevated above the road. Whilst the Spice Village restaurant fronts The Street, its car park and the proposed development would front, and be accessed off, Chapel Croft. The site is situated within the Chipperfield Conservation Area (CA) and the Spice Village is a locally listed building.

9. The proposal is for the erection of a staggered terrace of 5 x 3bed two-storey dwellings with accommodation in the roof. The dwellings would be set back from the road behind front gardens and would each have private rear gardens. The existing car park entrance off Chapel Croft would be used to provide a shared driveway for the dwellings that would lead to a residents' parking area

[1] LPA ref: 4/01520/18/FUL granted 4 September 2018

at the rear for the site with 14 spaces. A new access off Chapel Croft would be created closer to the Spice Village leading to its own separate customer car park with 12 spaces. The dwellings would have pitched roofs, gable features, chimneys, decorative brick quoins and window surrounds, timber casement windows and mono-pitch porches. They would have knapped flint frontages, slate roofs, and what look to be rendered rear elevations. They would not be dissimilar in appearance to some of the adjacent dwellings at Chantry View.

Green Belt Issues

10. The Framework is a material consideration in determining Green Belt proposals. Paragraphs 133 and 134 identify that the fundamental aim of the Green Belt policy is to prevent urban sprawl by keeping land permanently open, and that it serves five purposes which include to prevent neighbouring towns merging into one another and to assist in safeguarding the countryside from encroachment. At paragraph 143 the Framework states that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances.

11. Paragraph 145 of the Framework states that the construction of new buildings should be regarded as inappropriate in the Green Belt subject to a number of exceptions. 'Limited infilling in villages' is identified as an exception under paragraph 145e). Part f) namely 'limited affordable housing for local community needs under policies set out in the development plan' is also an exception. The Framework does not define 'limited' or 'infilling'. As the proposal is for limited infilling in a village, regardless of any affordable housing, it would not be inappropriate development.

12. Policy CS6 of the adopted Core Strategy (CS) 2013 identifies types of development that will be permitted in selected small villages in the Green Belt. Chipperfield is an identified village that is permitted to have, amongst other things, limited infilling with affordable housing for local people.

13. The policy defines infilling as being development, usually buildings and dwellings, within a gap along a clearly identifiable built-up frontage. There is no dispute between the parties that the site is an infill site, and from my observations on site I have no reason to disagree.

14. In terms of the effect on the Green Belt, infilling this open gap in the village for housing would clearly reduce openness. However, in allowing infilling as an exception, national Green Belt policy has implicitly taken openness into account. The site is open in that it is a car park, but it is located within the main built form of the village. The proposal would see dwellings visually and spatially fill the gap between existing dwellings, but this would not result in any encroachment into the countryside or the adjacent settlement and would not harm the wider openness of the Green Belt as a whole or locally. Moreover, when compared to the fallback scheme, the proposal with its slightly longer terrace, the two extra residents' parking spaces, reduction in some of the landscaping areas, and reduction in both the restaurant parking and width of the shared driveway, would not have a greater impact on openness.

15. CS Policy CS6 states that infilling will only be permitted where it is limited in scale, which it defines in the preceding explanatory text to be no more than 2 dwellings. The proposal for 5 dwellings would exceed the quantum limit of 2 dwellings and would not be affordable. However, the Council granted 4

dwellings on the adjacent site at Chantry View[2], which have been built, and more recently the 4 dwellings in the fallback scheme. The Council has therefore accepted that 4 dwellings can be limited infilling, partly because it considered the footprint would not be dissimilar to 2 large dwellings. I consider the same logic could be applied to the terrace of 5 dwellings, which would be staggered as 2 dwellings and 3 dwellings, and the terraced properties would be limited in scale.

16. Policy CS6 also requires limited infill to be affordable housing for local people who can demonstrate a strong local connection, either through residence, family ties or their place of work. The Council states that, in light of the Written Ministerial Statement (WMS) of November 2014 and the 2018 revisions to the Framework that reduced the threshold for which affordable provision is required, the site would fall below the amended threshold and this would override the affordable requirement in CS Policy CS6.

17. However, this is at odds with the Council's conclusion to refuse consent because the housing cannot be guaranteed to fulfil a local need. I note for the Chantry View development the officer report referred to the Council's own Affordable Housing Clarification Note, following the WMS, that said new dwellings need only be affordable where schemes create 6 or more dwellings. This was also used to justify the position for there not needing to be affordable provision for the fallback scheme of 4 dwellings. I have not been made aware that the Council's position on this has changed for it now to say that granting non-affordable housing "should not be repeated ad infinitum and without specific up to date information on housing need."

18. With regards supporting information, the Council advise in its Statement that the last Housing Needs Survey for Chipperfield was completed in 2003 and that the Settlement Profile Study (October 2017) shows a reduction in the village's population between 2001-2011. However, both the fallback and Chantry View developments were granted without reference to this information and the houses were not required to be affordable. In addition, the officer report for the fallback terrace scheme referred to the latest SHMA (Strategic Housing Market Assessment) that indicated that some 40% of the housing need is for 3 bed units and that there was historic evidence that there was a demand for this typology of housing. The Council has not justified why this information is no longer being used a year later.

19. It seems to me that in recent years the Council has not been unduly perturbed by granting non-affordable housing in Chipperfield under CS Policy CS6. I have not been presented with any substantive evidence for the reasons for the Council no longer referring to some of these various figures, or that in the intervening year since the fallback scheme was granted there has been a material change in circumstances to now warrant taking a different view. I find that the Council has taken an inconsistent approach to the application of affordable housing requirements. There is also no requirement in national policy to require an infilling limit of only two dwellings or that only affordable housing for local need would be acceptable. For these reasons I give the conflict with CS Policy CS6 only moderate weight.

20. I conclude that, despite some conflict with Policy CS6, I find the proposal would be limited infill in a village and would not be inappropriate development under

[2] LPA ref: 4/00228/17/FUL

the terms set out in the Framework and would fulfil the aims and purposes of the Green Belt. It is therefore not necessary for me to consider whether very special circumstances exist.

Design

21. The configuration and street frontage appearance of the proposed terrace would not be significantly different from the approved fallback terrace. The Council has not raised concerns that the dwellings are inappropriate in terms of their design and materials. They have confirmed the proposal would not detract from the character and appearance of the Chipperfield CA. From my site visit observations, I have no reason to take a different view.

22. The proposed terrace would be longer than the fallback scheme. To accommodate this, the depth of landscaping along the site boundaries would be reduced and the car park to the Spice Village restaurant would be made smaller by losing 1 parking space. Furthermore, the landscaped area shown at the end of the residents' car park on the fallback scheme would be reduced to accommodate two additional parking spaces. However, when compared to the lack of existing meaningful landscaping and what was proposed on the fallback scheme, this reduction in landscaping would not be significant. The oak tree at the site entrance would be retained. The landscaped frontages and other landscaping areas shown on the plans can be secured by condition. In addition, the bin store for plot 5 is shown to the front of the dwelling, as in the fallback scheme, albeit positioned adjacent to the shared driveway. Details of the bin stores can be conditioned as part of the overall landscaping of the site.

23. The width of the access drive would also be reduced to approximately 4.2m with a footpath along its western edge. The Council contend this is not wide enough to comfortably allow two vehicles to pass. However, there is no substantive evidence submitted to indicate the narrower driveway will cause highway safety issues and highway safety was not a reason for refusal.

24. The scheme has been amended to create 2 additional residents' parking spaces. This equates to 2.8 spaces per dwelling and exceeds the Council's maximum parking standards of 2.25 spaces per 3 bed dwelling. But the Council is satisfied that with the size and nature of the properties, the relative accessibility of the site and the need to accommodate visitors, that this over-provision would not be inappropriate nor would the extra vehicles be detrimental to highway safety. Indeed, the Council say that the proposal could be supported having regard to CS Policy CS8 and saved Appendix 5 of the Dacorum Borough Local Plan (LP). As provision of the extra spaces has not altered the overall configuration of the parking area *per se*, which is similar to the fallback layout the Council approved, this particular policy conflict would not result in harm.

25. Despite some policy conflict with the parking standards, I find the changes to the layout, access arrangements and landscaping would not be significant when compared to the fallback scheme. I am therefore not persuaded that the changes would, alone or in combination, result in an overly poor quality residential scheme to warrant refusal. Accordingly, the proposal would not conflict with CS Policies CS8, CS12 and CS13 and saved Appendices 3 and 5 of the Dacorum Borough Local Plan. These collectively seek to ensure that new development contributes positively to the public realm, with planting trees and

shrubs to soften screen edges, and there is safe and sufficient parking and means of access for all users.

Other Matters

26. A number of nearby residents raise a series of other concerns about the proposal. But in view of the reasons for refusal, the fallback position and my conclusions on the main issues, there is no need for me to address these in the current decision.

Conditions

27. I have considered the conditions put forward by the Council, which the appellant agrees to, against the advice in the Framework and Planning Practice Guidance. As a result, I have amended them for reasons of precision and clarity, and omitted unnecessary ones.

28. In addition to the standard condition which limits the lifespan of the planning permission, I have imposed a condition specifying the relevant drawings as this provides certainty. To safeguard the character and appearance of the area and the Chipperfield CA it is necessary to condition materials and rainwater goods. I have imposed a landscaping condition for the reasons above.

29. A condition is imposed to secure renewable energy and conservation measures, including sustainable drainage and water conservation which is necessary and relevant to meet the Council's policies and standards relating to these matters. Statutory bodies have not advised of any particular drainage problems in the area to warrant imposing a specific drainage condition. Given the location and nature of the proposed development it is necessary to secure the provision of the parking and turning areas, as shown on the plans, before any of the dwellings are first occupied.

Conclusion

30. The proposal is not inappropriate development in the Green Belt under the terms set out in the Framework, despite some conflict with CS Policy CS6, and it would not adversely impact on openness. The design would be of an acceptable quality, with particular regards to layout, access arrangements and landscaping. Therefore, for the reasons given above I conclude that the appeal should succeed, and planning permission should be granted subject to conditions.

K Stephens
INSPECTOR

SCHEDULE OF CONDITIONS

1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan, 101 Revision H; 102 Revision C; 103 Revision C; 104 Revision C; 105 Revision E; 106 Revision C; 107 Revision C; 108 Revision C, 109 Revision C and 110 Revision D.

3) No development shall take place until details of the materials to be used in the construction of the external surfaces of the development (including the retaining walls to access and circulation areas) 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.

4) All new external rainwater and soil pipes shall be formed in metal and painted black.

5) No development shall take place until full details of both hard and soft landscape works shall have been submitted to and approved in writing by the local planning authority. These details shall include:
   - hard surfacing materials;
   - means of enclosure;
   - elevation and sectional details of any retaining structures
   - soft landscape works which shall include planting plans; written
   - specifications (including cultivation and other operations associated
   - with plant and grass establishment); schedules of plants, noting
   - species, plant sizes and proposed numbers/densities where
   - appropriate;
   - trees to be retained and measures for their protection during
   - construction works;
   - proposed finished levels or contours in relation to existing site
   - levels and contours;
   - full elevations for bin storage areas, bicycle stores and any other
   - minor artefacts and structures (e.g. furniture, play equipment, refuse
   - or other storage units, signs, lighting etc);
   - existing and proposed over ground and underground services.

   In the case of tree protection measures these should be erected prior to the commencement of works and thereafter retained for the duration of construction activities.

   The approved landscape works shall be carried out before any part of the development is first brought into use and shall thereafter be retained.

6) The development hereby permitted shall not be occupied until the arrangements for vehicle parking, circulation, loading and unloading shown on Drawing No.101 Revision H shall have been provided, and they shall not be used thereafter otherwise than for the purposes approved.

7) Notwithstanding any details submitted as part of the planning application, no development shall take place until plans and details showing how the development will provide for renewable energy and conservation measures, and sustainable drainage and water conservation, have been submitted to and approved in writing by the local planning authority. The

approved measures shall be provided before any part of the development is first brought into use and they shall thereafter be permanently retained.

End of Conditions