
Appeal Decisions

Site visit made on 13 August 2019

by M Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 November 2019

Appeal A - Ref: APP/P1940/W/19/3229495

Aviemore, 65 Lower Road, Chorleywood WD3 5LA

- 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 Edit Residential (Chorleywood Ltd) against the decision of Three Rivers District Council.
 - The application Ref 18/2423/FUL, dated 30 November 2018, was refused by notice dated 11 February 2019.
 - The development proposed is the erection of a part 2 storey part 2½ storey building containing 9 apartments (8x2 bed and 1x3 bed), modified vehicular access, forecourt parking, refuse & cycle storage and amenity space.
-

Appeal B - Ref: APP/P1940/W/19/3229497

Aviemore, 65 Lower Road, Chorleywood WD3 5LA

- 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 Edit Residential (Chorleywood Ltd) against the decision of Three Rivers District Council.
 - The application Ref 19/0337/FUL, dated 19 February 2019, was refused by notice dated 29 April 2019.
 - The development proposed is described as "Application for full planning consent for the erection of a part 2 storey part 2½ storey building containing 7 apartments (7x2 bed), modified vehicular access, forecourt parking, refuse & cycle storage and amenity space. Resubmission of 18/2432/FUL".
-

These decisions are issued in accordance with Section 56 (2) (a) of the Planning and Compulsory Purchase Act 2004 as amended and supersede those issued on 24th October 2019.

Decisions

1. Appeal A is dismissed.
2. Appeal B is allowed and planning permission is granted for application for full planning consent for the erection of a part 2 storey part 2½ storey building containing 7 apartments (7x2 bed), modified vehicular access, forecourt parking, refuse & cycle storage and amenity space. Resubmission of 18/2432/FUL at Aviemore, 65 Lower Road, Chorleywood WD3 5LA in accordance with the terms of the application, Ref 19/0337/FUL, dated 19 February 2019, subject to the conditions in the attached Schedule.

Procedural Matter

3. As set out above, there are two appeals on this site. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
4. Subsequent to the appeals being submitted, the appellant has provided two unilateral undertakings. The Council has had the opportunity to comment on these undertakings and as such I have taken them into account when making my decisions.

Main Issues

5. The main issues raised in both appeals are the effect of the proposals on (i) the character and appearance of the area, and (ii) on-street parking pressure.
6. In addition to the above, further main issues raised in respect of Appeal A are (i) the effect of the proposal on highway safety, with particular regard to the vehicular access, (ii) the effect of the proposal on the living conditions of the occupiers of Wroxton, with particular regard to overlooking, and those of future occupiers, with particular regard to outdoor space, and (iii) whether the proposal makes adequate contributions towards the provision of affordable housing.

Reasons

Appeals A and B

Character and appearance

7. The site lies to the rear of residential properties which front Lower Road. These properties comprise both detached and semi-detached dwellings which, whilst displaying variety in terms of their detailed design, exhibit some consistency in their scale and height. The existing dwelling which occupies the appeal site, given its single storey height, is scarcely discernible from Lower Road and therefore has little visual presence. As a consequence, the arrangement of dwellings along the road is a strong feature of the area and defines the pattern of development within the vicinity. Whilst the existing property departs from this pattern of development, as I outline above, it is not an obvious feature in views from the road.
8. Appeal scheme A would result in the construction of a two-storey building with accommodation in the roof space, replacing the single storey dwelling currently on site. It would result in a marked increase in the bulk and massing of the built development on the site. Furthermore, the height of the proposal would be greater than that of the existing bungalow, notwithstanding the reduction in site levels that is also proposed. In my view, this would result in the proposed building appearing as a more prominent feature behind the existing dwellings along Lower Road, highlighting it as an incongruous feature in the area. This would visually detract from the current linear arrangement of properties.
9. The building would also occupy a larger portion of the appeal site than the existing property and there would be little space between the built form and the site boundaries. From the front of the building, notwithstanding that this is not part of the public realm, the building would nonetheless appear as a cramped form of development within the site.

10. Turning to appeal scheme B, the building proposed would have an overall height below that proposed within appeal scheme A and not higher than that of the existing bungalow. As a consequence, visually, the presence of the proposed building would not be significantly different from that of the existing bungalow, and it would not appear as an overly large or prominent feature behind the dwellings fronting Lower Road. Thus, it would not detract from the linear arrangement of existing properties.
11. In terms of the design of the proposed building, I note that there would be changes in roof height and form throughout, however in my view the building would have a unified design and the variations within would not of themselves be harmful. The reduced footprint, compared to that of appeal scheme A, also means that the building occupies less of the site with greater separation between the building and the site boundaries, resulting in a more spacious development. As such, appeal scheme B would not appear as a cramped development within the site.
12. I acknowledge that a reduction in ground levels is proposed in order to reduce the prominence of the building. Given the location of the site to the rear of existing properties and against the backdrop of land that rises up to the north east, this would not result in any unacceptable visual effect. There is some concern by interested parties that there will be a loss of trees within the site which would expose the development and result in it being particularly visible from viewpoints in the area. However, whilst some trees will be removed, the submitted landscaping details show existing trees that are to be retained as well as additional tree planting that is to take place. Thus, there would be no unacceptable effect in this regard.
13. Accordingly, I find that Appeal scheme A would have an adverse effect on the character and appearance of the area. The scheme would conflict with Policies CP1, CP3 and CP12 of the Three Rivers District Council Local Development Framework - Core Strategy (2011) (the Core Strategy) and Policy DM1 and Appendix 2 of the Three Rivers District Council Local Plan – Development Management Policies Local Development Document (2013) (the Policies Plan). In respect of Appeal scheme B, I find that its effect on the character and appearance of the area would be acceptable and would comply with the above policies.
14. Together, and amongst other things, these policies seek to ensure that development protects the built environment, that residential development that respects the character of the district is promoted, that development has regard to local context and conserves the character of an area, that development maintains the particular character of an area and that new development is not excessively prominent in relation to adjacent properties.

On-street parking pressure

15. There was on-street parking provision within the vicinity of the site and many of the dwellings in the area did not appear to have off-street parking provision. I observed that much of the parking at the time of my visit (15:10) was occupied and there were very few spaces available.
16. Appeal scheme A includes provision for 12 parking spaces which would serve 9 properties. Appendix 5 of the Policies Plan outlines that the usual requirement for this scheme would be a provision of 18.25 spaces. It further states that in

areas of high accessibility and good service provision, a reduction in the levels of parking for residential development may be appropriate.

17. The Council highlight that the site is at an accessible location and within walking distance of local shops and services, as well as transport links; I agree. As such, in my view, a reduction in the parking requirement would not in principle be problematic. However, the shortfall in the case of appeal scheme A of 6.25 spaces within a development of 9 units, is in my view, too considerable. It is likely therefore that the lack of parking would lead to increased pressure for on-street parking within the vicinity of the site. This could lead to indiscriminate and potentially dangerous parking within the area. Furthermore, the increased pressure for parking would adversely impact on the living conditions of nearby residents, through an unacceptable increase in competition for parking spaces. I acknowledge that the unilateral undertaking referring to appeal scheme A provides that no occupier would be entitled to apply for a residents parking permit, but this would not in my view overcome the harm that I have identified above, as this would only prevent on-street parking within the identified residents parking bays.
18. Appeal scheme B includes provision for 12 parking spaces also, but in light of the reduced number of units proposed, the scheme would attract a requirement for 14 spaces. In light of the accessibility and access to transport links referred to above, I consider that the shortfall of only two spaces would not lead to a substantial or unacceptable increase in pressure for on-street parking within the locality.
19. Thus, I find that appeal scheme A would result in a demonstrable harm through increased pressure for on-street parking resulting in a detriment to highway safety and the living conditions of nearby residents. Accordingly, the scheme would conflict with Policies CP10 and CP12 of the Core Strategy and Policy DM13 and Appendix 5 of the Policies Plan. Together, and amongst other things, these policies seek to ensure development makes adequate provision for vehicle parking and that the amenity of an area is conserved.
20. However, I find that appeal scheme B would make adequate provision for off-street parking and consequently would not lead to an increase in pressure for on-street parking. Thus, this scheme would accord with the policies referred to in the preceding paragraph.

Appeal A

Vehicular access

21. The site currently benefits from an existing vehicular access off Lower Road. The scheme seeks to upgrade this access to create a 5.1 metre (m) wide access (tapering to 4.8m), with a 1.8m pedestrian route at the point of access which then blends into a shared surface for the remainder of the driveway. The access would rely on 2m junction radii. The Council contend that 6m radii are recommended, with the minimum being 4m. The appellant highlights that Manual for Streets 2 (MfS2) states that the use of tight corner radii is not necessarily unacceptable, particularly in urban areas.
22. The submitted Transport Statement advocates that the use of the tight radii is acceptable. This includes swept path analysis showing vehicles can satisfactorily enter and exit the site. The appellant also highlights that existing

on-street parking in the vicinity of the site access already influences the path of vehicles entering and exiting the site. As a consequence, it is contended that the use of 2m radii would not be problematic. In the absence of any substantive evidence to the contrary, the proposed access arrangements would appear to be sufficient in order to cater for the development.

23. Thus, the proposed vehicular access is acceptable and would not result in any harm to highway safety at this location. The scheme would therefore comply with Policies CP10 and CP12 of the Core Strategy and Policy DM13 of the Policies Plan. Together, and amongst other things, these policies seek to ensure development provides a safe and adequate means of access and that places, spaces and buildings are accessible.

Living conditions

24. Adjacent to the site lies the property, Wroxton, which has its associated garden area located to the front of the property. Appeal scheme A proposes the inclusion of balconies to the rear and rear flank elevations of the building at first and second floor level, as well as a dormer window at second floor level. These would be adjacent to the boundary with Wroxton and allow views towards the garden area to the front of this existing property.
25. I note that there is some landscaping along the shared boundary, but this to my mind would not be sufficient to prevent views into the garden area, particularly so during the winter months when the landscaping would be likely to lose its leaves. Furthermore, the existing landscaping would not prevent the perception of being overlooked. It is contended that the use of privacy screens would curtail the ability to look into the garden of Wroxton, however in light of the orientation of the balconies, the screens would not be sufficient in this regard.
26. I am also conscious of the proposed grading works that would take place, reducing the ground levels within the appeal site. The appellants state that the proposed first floor would be 0.62 metres higher than the existing ground floor level of the existing bungalow. However, there is a second storey above this which includes a balcony that serves Plot 9. This would also allow for unacceptable overlooking towards the garden area of Wroxton.
27. Two defined lawn areas would be provided as communal external space. The Council discounts one of these spaces due to its location adjacent to the forecourt parking area. Whilst this space would be within the site and not subject to the passing by of the public, it would nevertheless be impacted on by the comings and goings of residents and visitors. Consequently, the quality of this space would be poor. The appellant further points to the provision of incidental areas which could further contribute to the communal external space. However, such incidental areas would not be formally laid out, would contain a pathway linking the two grassed areas and would also contain a number of retained trees that would shade the area. Furthermore, the submitted landscape plan shows that these areas would be planted with shrubs and perennials, which would further limit their usability. Thus, the quality of the incidental areas as communal external space would also be poor.
28. Accordingly, appeal scheme A would have an unacceptable effect on the living conditions of the occupiers of Wroxton, with particular regard to overlooking, and would fail to provide adequate living conditions for future occupiers, with

particular regard to outdoor space. The scheme would therefore be contrary to Policy CP12 of the Core Strategy and Policy DM1 of the Policies Plan. Together, and amongst other things, these policies seek to ensure development protects residential amenities and that development provides adequate amenity space.

Affordable housing

29. Policy CP4 of the Core Strategy seeks that a contribution towards the provision of affordable housing be sought on all housing sites, unless economic viability considerations indicate otherwise. However, paragraph 63 of the National Planning Policy Framework (the Framework) outlines that the provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas.
30. The Council highlight local evidence of affordable housing need is substantial and that high levels of need are evidenced in a Strategic Housing Market Assessment. It is also stated that the Council is reliant on contributions from small sites in order to meet affordable housing policy objectives. These matters weigh significantly in favour of seeking a contribution towards affordable housing. The appellant has not disputed these matters.
31. Having regard to this information therefore, I consider that the specific circumstances within this district together with the policy of the development plan are sufficient, in this case, to outweigh the guidance of the Framework.
32. The Council sets out that ordinarily there would be a requirement for a commuted sum contribution towards affordable housing, calculated in accordance with the Council's Affordable Housing Supplementary Planning Document (the SPD). However, viability information submitted with the planning application indicated that the scheme was not sufficiently viable to provide the full contribution. The details were scrutinised by an independent viability assessor who concluded that the scheme could support partial payment of the contribution. A completed legal undertaking has been submitted securing the contribution that it has been demonstrated that the scheme can support. The Council has had the opportunity to comment on this and have confirmed it is content that I am able to consider the undertaking as part of the appeal.
33. Subject to the submitted legal agreement, the scheme complies with the requirements of Policy CP4 of the Core Strategy, which seeks to ensure that subject to viability considerations, new development makes adequate contributions towards the provision of affordable housing.

Other Matters

34. The Council is currently unable to demonstrate a five-year supply of deliverable housing sites. However, whilst taking this into account, I find that the adverse impacts of Appeal scheme A, in terms of its harm to the character and appearance of the area, to highway safety and to the living conditions of nearby occupiers, would significantly and demonstrably outweigh the benefits that would arise from the scheme.
35. Concern has been raised by interested parties in respect of the effect of the proposed development on the living conditions of the occupiers of properties

along Lower Road. This is particularly in regard to overlooking, outlook and loss of light. In terms of overlooking, I note that there is a degree of separation between the proposed building and the boundary shared with existing properties. Given this and the current degree of mutual overlooking between existing properties, together with the use of obscure glazing within the closest windows facing the properties along Lower Road, any overlooking that may occur as a result of Appeal scheme B would not be unacceptable.

36. I accept that the introduction of a larger building on the site would change the outlook currently experienced by occupiers from the rear of existing properties. However, whilst the bulk of the proposed would be greater than the existing due to the reduction in ground levels, given that the height would not exceed that of the existing, I consider that the building would not be an unacceptably dominant feature in views. For the same reason, there would be no unacceptable loss of light to the existing properties. I note that the Council, in its committee report in respect of Appeal scheme B, find that there would be no significant adverse impact on neighbouring dwellings and, for the reasons above, I have no cause to find differently.
37. The matters of noise pollution, the stability of the land, flooding, effect on property values, the more intensive use of the site, effect on wildlife, increase in traffic and congestion and possible hazard to pedestrians have also been raised. However, there is no substantive evidence before me to show that the development would have a harmful effect in respect of these matters and, as such, they have little bearing on my decision. In respect of waste management facilities, the submitted plans include adequate provision for the storage of waste and recyclables, as well as a satisfactory collection point near to the highway. As regards the adequacy of the submitted plans, I consider that the details shown within the submitted plans and details are sufficient to assess the schemes and to make my decisions. In regard to possible disturbance during the course of construction, any such disturbance would be only for a limited period, would not be likely to have a significant effect on the living conditions of nearby occupiers and, as such, would not be sufficient to warrant refusal of permission.
38. It has been suggested that a covenant exists preventing the construction of more than one unit on this site. However, I have no details before me in this respect and, in any event, the presence of any private covenant would be a matter for the parties involved. It has also been suggested that there is disagreement over the location of the boundary with the neighbouring site. No substantive evidence has been provided in regard to this matter, as such this issue has little influence on my decision.
39. There is some reference by interested parties to the development of the site effecting a conservation area. However, the Council in the appeal questionnaire confirm that the site is neither within, nor adjacent to, a conservation area.

Conditions

40. I have imposed conditions in relation to the commencement of development and in the interests of certainty a condition to ensure compliance with the submitted plans.
41. In light of the location of the site and its access in close proximity to existing properties, in order to safeguard the living conditions of residents, I have also

imposed a condition requiring details of construction traffic and parking. Given the potential effect from the outset of development, this condition is required to be pre-commencement. In order to safeguard the adjacent Transport for London infrastructure and in the interests of safety, I have included a condition requiring details of below ground structures to be submitted for approval.

42. In the interests of safeguarding biodiversity, I have imposed conditions requiring details of a biodiversity and landscape plan, as well as details of external lighting. In the interests of energy efficiency, I have imposed a condition requiring the implementation of energy saving measures and installation of photovoltaic panels. So that the development has a satisfactory external appearance, I have imposed a materials condition. To ensure that satisfactory refuse/recycling facilities are provided, a condition is required in this respect.
43. To safeguard the living conditions of neighbouring occupiers, conditions are necessary in respect of boundary treatments, balcony screening and obscure glazing. In the interests of safeguarding biodiversity, a condition is required in respect of the further investigation of a tree which is proposed to be removed.
44. Conditions have been recommended requiring further surveys to be undertaken in respect of the presence of bats within the building on the site. In this regard, an additional survey has been submitted as part of the appeal which indicates that no bats were found to be present within the building, as such a condition is not necessary in this respect.
45. Given that a landscaping scheme as well as a maintenance scheme have been submitted with the appeal, there is no need for conditions requiring further details. I have however imposed a condition in respect of the implementation of these details. A condition is recommended in respect of a parking management plan, however as I have found that appeal scheme B makes adequate provision for parking, this does not meet the test of necessity. For the same reason, as permission would be required for the construction of new windows into the development, I have not imposed a condition removing permitted development rights.

Conclusion

46. For the reasons given above and having regard to all matters raised, I conclude that Appeal A should be dismissed, and that Appeal B should be allowed.

Martin Allen

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: 101 P.01, 131 P.01, 132 P.01, 133 P.01, 151 P.02, 201 P2.01, 301 P2.01, 302 P2.01, 303 P2.01, 351 P2.01, 352 P2.01, 353 P2.01, 401 P2.01, 402 P2.01, 403 P2.01, 451 P2.01, 452 P2.01, 501 P2.01, 502 P2.01, 551 P2.01, 552 P2.01 and 601 P.01.
- 3) The development shall not begin until full details of all proposed construction vehicle access, movements, parking arrangements and wheel washing facilities have been submitted to and approved in writing by the Local Planning Authority. The relevant details shall be submitted in the form of a Construction Management Plan and the approved details shall be adhered to throughout the construction phase of the development.
- 4) The development hereby permitted shall not be commenced until detailed design and method statements (in consultation with London Underground) for all of the demolition, foundations, basement and ground floor structures, or for any other structures below ground level, including piling (temporary and permanent), have been submitted to and approved in writing by the local planning authority which:
 - provide details on all structures
 - provide details on the use of tall plant and scaffolding
 - accommodate the location of the existing London Underground structures
 - demonstrate access to elevations of the building adjacent to the property boundary with London Underground can be undertaken without recourse to entering adjacent land
 - demonstrate that there will at no time be any potential security risk to London Underground railway, property or structures
 - accommodate ground movement arising from the construction thereof
 - mitigate the effects of noise and vibration arising from the adjoining operations within the structures

The development shall thereafter be carried out in all respects in accordance with the approved design and method statements, and all structures and works comprised within the development hereby permitted which are required by the approved design statements in order to procure the matters mentioned in paragraphs of this condition shall be completed, in their entirety, before any part of the building hereby permitted is occupied.
- 5) Prior to the commencement of development, a Biodiversity and Landscape Plan shall be submitted to the Local Planning Authority, detailing how it is planned to incorporate biodiversity as part of the development. It shall show the location of any habitat boxes, and specify

- tree/boundary/hedgerow species, including any native species. The development shall be carried out in accordance with the approved details.
- 6) Prior to any work affecting Tree T1 (as identified within the Preliminary Ecological Appraisal and Preliminary Bat Roost Assessment, Tyler Grange, 13 March 2019), a bat endoscope inspection of potential roosting features supported by this tree shall be undertaken to accurately classify the roosting bat potential and determine the presence or likely absence of roosting bats. Should roosting bats be found, prior to the undertaking of works affecting this tree, the outline bat mitigation strategy (ref: Preliminary Ecological Appraisal and Preliminary Bat Roost Assessment, Tyler Grange, 13 March 2019) shall be modified based on the results and be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with these approved details.
 - 7) Prior to the first occupation of the development hereby permitted, photovoltaic panels shall be installed in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority and energy saving measures detailed within the submitted Energy Statement shall be implemented. The photovoltaic panels and energy saving measures shall be permanently retained thereafter.
 - 8) Landscaping of the site shall be undertaken in accordance with the Landscape Master Plan (Drawing Number 1, dated 14/02/19) and the submitted planting schedule. The hard landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. The completed landscaping shall be maintained in accordance with the submitted Maintenance Notes, prepared by John Davies Landscape.
 - 9) No above ground works shall take place until samples of all external facing materials 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.
 - 10) The development shall be undertaken in full compliance with the construction methods detailed in the Arboricultural Method Statement prepared by GHA Trees dated 12th February 2019. No operations shall commence on site in connection with the development hereby approved (including tree felling, pruning, demolition works, soil moving, temporary access construction, or any other operation involving the use of motorised vehicles or construction machinery) until the tree protection works required by the approved scheme are in place. The fencing or other works which are part of the approved scheme shall not be moved or removed, temporarily or otherwise, until all works including external works have been completed and all equipment, machinery and surplus materials removed from the site.

- 11) Prior to the first occupation of the development hereby permitted, details (including the position, height, design and intensity) of all external lighting to be installed on the site or affixed to the building shall be submitted to and approved in writing by the Local Planning Authority. The lighting shall be installed in accordance with the approved details.
- 12) Prior to the first occupation of the development hereby permitted, the refuse/recycling facilities shall be provided in accordance with drawing number 601 REV P.01 and 201 P2.01. The refuse/recycling facilities shall be permanently retained thereafter.
- 13) Prior to occupation of the development hereby permitted, a plan indicating the positions, design, materials and type of boundary treatment to be erected on the site shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be erected prior to occupation in accordance with the approved details and shall be permanently retained as such thereafter.
- 14) Prior to occupation of flat 7, details of screening to a height of 1.8m as measured from the surface of the balcony serving the flat to be erected to the flanks of the balcony shall be submitted to and approved in writing by the Local Planning Authority. The screening shall be erected prior to occupation in accordance with the approved details and retained as such thereafter.
- 15) Flat 7 shall not be occupied until the dormer windows in the west flank roofslope serving flat 7, have been fitted with obscured glazing, and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.