



Appeal Decision

Site visit made on 17 December 2019

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 December 2019

Appeal Ref: APP/N0410/W/19/3238371

1B Upper Road, Higher Denham UB9 5EJ

- 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 G Randhawa (Paragon New Homes Ltd) against the decision of South Bucks District Council.
 - The application Ref PL/19/1337/FA, dated 15 April 2019, was refused by notice dated 21 June 2019.
 - The development proposed is construction of two semi-detached dwellings following demolition of the existing dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Reference has been made in appeal submissions to an emerging Chiltern and South Bucks Local Plan. This document is at an early stage in its preparation and so I afford its policies limited weight in my assessment.

Main Issues

3. The main issues are (i) the effect of the proposal on biodiversity, especially in regard to bats, (ii) the effect on the character and appearance of the area, and (iii) whether the proposal represents inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and development plan policy.

Reasons

Biodiversity

4. Regulations¹ impose a duty to consider whether European Protected Species (EPS) would be affected by a proposed development and whether associated mitigation measures would be effective in mitigating any harm. Core Policy 9 of the South Bucks Local Development Framework Core Strategy Development Plan Document 2011 (CS) is generally consistent with the Framework in resisting development that would harm biodiversity, unless its importance outweighs the harm caused and appropriate mitigation is provided.
5. A daytime inspection has found evidence of pipistrelle bat day roosts behind hanging tiles on the existing house. The appellant's Preliminary Ecological

¹ The Conservation of Habitats and Species Regulations 2017

Appraisal (PEA) notes that, as roosts would be destroyed and bats are an EPS, a licence from Natural England (NE) will be required prior to the demolition of the building. Also, the PEA requires further summer emergence and re-entry surveys to confirm species, numbers and status of the bat roosts affected. A mitigation strategy is also set out.

6. Paragraph 99 of the ODPM Circular 06/2005 says it is essential to establish the extent to which EPS may be affected by a proposal before granting planning permission. Moreover, without the summer surveys, there is insufficient understanding on the nature of the affected roosts and the number and species of bats on the site to ascertain whether the proposed mitigation measures would overcome any adverse effects. Also, the lack of comprehensive information compromises any assessment as to whether the benefits of the scheme would outweigh the harm caused to bats. The suggested planning conditions would not allow a proper assessment as required under the Regulations and would be contrary to the provisions of Circular 06/2005.
7. An extant planning permission² allows the demolition of the existing house. However, I have not been informed that a NE licence has been issued and so the demolition would currently be contrary to the Regulations. NE licensing policy states that a lower standard of survey effort may sometimes be accepted, but also says that licensing decisions should be properly supported by survey information. There is no evidence that indicates a NE license would be issued without the further surveys required by the PEA. As such, I attach limited weight to the existing permission in my consideration of this main issue.
8. For the reasons above, I conclude that the development would have a harmful effect on biodiversity through the destruction of bat roosts and potential harm to bats. Consequently, and in this regard, the development would be contrary to CS Core Policy 9, ODPM Circular 06/2005 and the Framework. These aim, amongst other things, to avoid harm to biodiversity unless it is shown that the benefits of development outweigh the harm and appropriate mitigation is provided. Insufficient information has been provided to demonstrate the development would comply with these policies.

Character and appearance

9. The appeal property is in a residential area with a variety of house styles. The proposal involves replacing the existing dwelling with a pair of semi-detached houses as well as a new access point and hardstanding to the front.
10. The proposed plots would be narrower than most others in the area. However, there is a lack of uniformity in the appearance of nearby properties and so the pair of semi-detached units would not be markedly incongruous. An extra unit on the site is unlikely to generate any significant additional paraphernalia that would fail to harmonise with the existing residential character of the locality. Also, the proposed hardstanding would be similar to other properties in the street with off-road parking to the front. The new access would not appear out of place amongst the numerous other crossovers in the road.
11. For these reasons, I conclude that the development would not cause harm to the character and appearance of the area. Consequently, and in this regard, it would accord with policies EP3 and H9 of the South Bucks District Local Plan

² Council no PL/18/3129/FA.

1999 (LP), policy CP8 of the CS and the Framework. These aim, amongst other things, to ensure that development is of high quality design and avoids harm to the character and appearance of an area.

Inappropriate development

12. The Framework defines the construction of new buildings as inappropriate development in the Green Belt, although the list of exceptions at paragraph 145 (e) includes limited infilling in villages. In this regard, LP policy GB1 is generally consistent with the Framework.
13. The proposal would represent limited development. The site is amongst houses in the Higher Denham settlement boundary as defined in the development plan and so lies in a village. Also, as the site is surrounded by development and paragraph 145 (e) of the Framework does not preclude demolition, the proposal would represent infilling.
14. LP policy GB3 includes further criteria in respect of limited infilling in Green Belt settlements and so, in this regard, is inconsistent with the Framework. In any case, the proposed building would be of similar size to the existing dwelling and so would not detract from the open, undeveloped character of the Green Belt. Also, the proposal would be compatible in terms of design and scale to the area and would not harm the living conditions of occupiers of nearby houses by reason of overlooking or overshadowing compared to the current situation.
15. As such, I conclude that the proposal would represent limited infilling in a village and therefore would not be inappropriate development in the Green Belt. In this regard, it would accord with LP policies GB1 and GB3 and the Framework which aim, amongst other things, to resist inappropriate development in the Green Belt unless very special circumstances exist.

Other Matters

16. The proposal would not be at flood risk and would be acceptable in terms of highways safety and parking provision. Planning conditions could be imposed to protect trees and prevent disruption during construction. However, acceptability in these regards is a neutral factor in my assessment.

Conclusion

17. I have found the proposal would not harm the character and appearance of the area and would not be inappropriate development in the Green Belt. However, it would cause harm or risk of harm to bats and there is insufficient information to demonstrate this would be outweighed by the benefits of the scheme or that the proposed mitigation measures would be appropriate. The harm in this respect is the overriding consideration. The proposal would conflict with the development plan when read as a whole, and material considerations do not lead me to a decision otherwise.
18. For these reasons, I conclude the appeal should be dismissed.

Jonathan Edwards

INSPECTOR