
Appeal Decision

Site visit made on 14 January 2020

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 January 2020

Appeal Ref: APP/K0425/W/19/3236174

Land to the south east of Princes Gate, High Wycombe, Buckinghamshire HP13 7AX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr S Oldroyd of The Incidental Land Company against the decision of Wycombe District Council.
 - The application Ref 18/06430/OUT, dated 5 June 2018, was refused by notice dated 11 March 2019.
 - The development proposed is for 9 apartments, plus amenity space and parking provision.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Wycombe District Local Plan (LP) was adopted in August 2019 and now forms part of the development plan and supersedes policies in the Wycombe Development Framework Adopted Core Strategy, July 2008 and saved policies of the Wycombe District Local Plan to 2011, January 2004. The policies in the Delivery and Site Allocations Plan, July 2013 (DSA) remain part of the development plan. I consider that the most relevant policies in the recently adopted development plan have broadly similar objectives to those replaced, and as such, there have been no fundamental changes insofar as is relevant to the circumstances of this appeal. Both parties and interested parties have had the opportunity to refer to the LP as part of the appeal, therefore, I am satisfied that no injustice will result from the change in policy circumstances.
3. The application has been made in outline, but access, appearance, layout and scale are to be determined at this stage with only landscaping shown as reserved.

Main Issues

4. The main issues are the effect of the proposal on:
 - Walking and cycling routes having regard to local and national planning policies;
 - Green infrastructure having regard to local and national planning policies;

- The living conditions of future residents, with particular reference to the privacy and security of outdoor space, and;
- The character and appearance of the area, having particular regard to the layout.

Reasons

Walking and cycling route

5. The appeal site comprises part of the former railway line between Bourne End and High Wycombe. Policy DM4 of the DSA stipulates that the former line is proposed as a new walking and cycling route and safeguards it for that purpose by stating that planning permission will not be granted for development that would prejudice the construction of a 5m wide walking and cycling corridor between High Wycombe town centre/railway station and Bourne End. It further states that wherever possible the route should be separated from vehicular traffic.
6. Paragraph 6.24 of the DSA refers to the route's great potential as a walking and cycling route given that it is direct, relatively flat and is well connected to homes, schools, open space, railway stations and town and district centres. The explanation supporting the policy further sets out the wider strategic objectives behind it, whereby the aim is to create an attractive environment that would encourage walking and cycling referred to as a "showcase to promote walking and cycling in High Wycombe, for both local and longer distance journeys"¹. Reference is made to the route providing a significant green corridor that, aside from the biodiversity benefits, would make it a pleasant experience for walkers and cyclists. As such, the route, would not only encourage other modes of travel other than by motor vehicles, but would also have health and well-being benefits for the users of the route.
7. The appeal proposal would introduce an apartment block, parking area and amenity space which due to the relatively narrow, linear nature of the site, would extend across most of its width. A pedestrian and cycle route is shown through the appeal site but this is less than 5 metres wide and its course would be adjacent to the parking area, in close proximity to the building along its north eastern edge and through the grounds of the residential development. The restricted width of the route combined with its proximity to the car parking and building would fail to provide a verdant, inviting walking and cycling environment and would fall considerably short of the intended showcase referred to in the DSA.
8. The appellant suggests that an alternative walking and cycling route² following the direction of the A40, which consequently would not include the appeal site, would provide a better option for walkers and cyclists. However, the intended walking and cycling route under policy DM4 is specifically in relation to the former railway line, and the decision in relation to the overall route was made through the development plan process, no doubt taking into consideration numerous other factors of which I am not aware.
9. Furthermore, the positive qualities of the route as a green corridor, and its relationship with surrounding built form and wider walking/cycling network

¹ Paragraph 6.25 DSA

² Appendix 1, Appellant's Statement of Case

formed part of the reasoning behind the policy. As such, its purpose would be wider than simply providing the most direct route to the town centre. In any event, there is little evidence to suggest that such an alternative route would be forthcoming. Moreover, the reference to diversions from the former railway track in paragraph 6.25 of the DSA is in relation to those sections of the former railway line that have been developed on or have become part of residential gardens that back onto the line, rather than advocating an alternative route altogether. Therefore, the appellant's suggested alternative route attracts little weight.

10. I note that the Highway Authority did not object to the proposed width of the route³ and I am specifically referred to paragraph 6.2.14 of the Department of Transport Local Transport Note 2/04 Adjacent and Shared Use Facilities for Pedestrians and Cyclists. This states that *"Shared use facilities have operated satisfactorily down to 2.0m wide with considerable use by pedestrians and cyclists (up to around 200 per hour). However, this width should be considered to be an absolute minimum, and the desirable minimum is 3.0m. The minimum widths should be considered as a starting point, with higher standards adopted if possible. Again, local conditions and opinion will need to be taken into account"*. As such, the proposal would fall below the desirable minimum width cited in the guidance.
11. Moreover, policy DM4 expressly refers to a 5m width which appears to have been adopted notwithstanding the guidance referred to being in existence. The explanation for the policy indicates that it seeks to achieve more than the absolute minimum required for utilitarian movement and safety purposes, rather it intends to promote walking and cycling, and more generous space would play a part in creating a more inviting environment that would encourage a greater range of walkers and cyclists to use it.
12. I am referred to various other non-vehicular routes⁴ in the district, including at Melissa Court, whereby existing footpath or bridleways pass through parking courts or shared spaces. However, it is not shown that any of these comprise part of the former Bourne End to High Wycombe Railway Line such that the provisions of policy DM4 applied. They are therefore of limited weight.
13. Whilst the walking and cycle lane is not segregated from the proposed car parking area, I accept that, due to the relatively limited transport movements and low speed of traffic, this arrangement is unlikely to result in unacceptable highway safety problems. Nevertheless, this would not overcome nor address the harm I have identified.
14. Accordingly, for the reasons outlined I find that the proposal would prejudice the construction of a 5m wide walking and cycling corridor on the route defined in the DSA and would therefore, conflict with policy DM4.

Green Infrastructure

15. Paragraph 171 of the National Planning Policy Framework (the Framework) indicates that development plans should take a strategic approach to maintaining and enhancing networks of habitats and green infrastructure. Policy DM11 of the DSA, amongst other things, identifies Corridor Opportunity Areas (COA) as part of the strategic green infrastructure across the district.

³ 2.5 metres

⁴ Appendices 2 and 4, Appellant's statement of case

The former railway line, of which the appeal site forms part, is an identified COA and policy DM11 requires development to contribute towards the delivery of COA that would be likely to enhance movement opportunities for wildlife and people, thereby providing benefits for wildlife and the health and wellbeing of local communities.

16. In contrast to the prevailing settlement pattern, the appeal site comprises grassland and scrubland which together with nearby established trees and vegetation conveys a wilder verdant character, largely free from built form. The introduction of significant built form, parking and garden area would therefore have an urbanising effect and increase associated lighting and activity. As a consequence, the remaining area available for landscaping and provision of a walking and cycle route would be curtailed. This would fail to enhance the role the site might play in providing a green link between areas of existing green infrastructure as part of a wider network and would therefore, diminish its potential as a movement opportunity for wildlife and people.
17. In coming to this view, I am mindful that the outline application does not include detailed landscaping proposals, but I have been informed by the layout plan⁵. I further note that there was no objection from the Council's Ecology Officer and that the Ecological Survey information indicates that it would be possible to use a planning condition in order to provide measures on the site to mitigate the impact of the proposal in order to achieve a net gain in biodiversity and safeguard protected species. Nevertheless, policy DM11 in relation to green infrastructure, requires the wider consideration of the role, or potential role of the appeal site within a network of multi-functional green space which can deliver quality of life improvements as well as environmental benefits.
18. Accordingly, the proposal would run counter to the requirement in policy DM11 of the DSA for development to deliver a Corridor Opportunity Area as it would fail to provide access and biodiversity enhancements as part of the strategic green infrastructure network. This would also conflict with policy DM34 of the LP which, amongst other matters, seeks to protect and enhance both biodiversity and green infrastructure features.

Living conditions of future residents

19. The proposal would provide each apartment with a private amenity area or balcony in addition to communal garden space to the south east of the site. However, I have some concerns regarding the degree of privacy for the outside space for the three ground floor flats given their proximity to the proposed cycle and walking route. The relationship is such that users of the walking and cycling route, due to their immediate presence and activity, would have an unacceptably intrusive impact on the intended residents of these flats when using their amenity space.
20. Furthermore, although detailed landscaping proposals do not form part of the proposal, there would be limited options with regards to the arrangement of the communal space, as the walking and cycle route through the site would act as a considerable constraint. As such it would be difficult to create discreet spaces providing sufficient levels of privacy and security for the intended residents without having undesirable knock-on effects for both residents and

⁵ Drawing No.1749/P/10.02 Rev B

users of the route, arising from significant or inappropriate boundary treatments.

21. In addition, the proximity and presence of the walking and cycling route near to, or through, the open space provided for residents would result in future residents having a diminished sense of security in spaces provided for their enjoyment and wellbeing. This would be likely to deter or inhibit residents from fully using the space. This conflicts with the guidance in sections F3 and F4 of the Residential Design Guidance Supplementary Planning Document, June 2017 in relation to private and communal amenity space for flats.
22. Accordingly, I find that the appeal proposal would result in unacceptable harm to the living conditions of future residents as it would not provide for a suitable level of privacy or sense of security. Therefore, the proposal would be contrary to policy DM35 of the LP, that amongst other matters, requires development to provide a level of privacy and amenity for future occupants appropriate to the proposed use.

Character and appearance

23. Commensurate with its former use as a railway line, the appeal site is linear in nature. It has a verdant character largely free from built form, which positively contributes towards the surrounding mixed suburban settlement pattern. The Council have not raised specific concerns in relation to the appearance of the proposed apartment block, which I acknowledge is generally in keeping with the form and appearance of modern residential development evident to the north of the site. However, essentially the parties disagree as to whether the configuration of the layout would be harmful to the character of the area due to the relationship of the building with the space that surrounds it.
24. Policy DM35 of the LP indicates that all development is required to improve the character of the area and the way it functions. Section 3(h) of DM35 requires development to demonstrate attractive and high quality design, and appropriate character in the scale, form, layout and detailed design of buildings, and the structures and spaces around them.
25. Question 3.2 of the Housing Intensification Supplementary Planning Document, December 2005 asks, have the public and private areas been clearly defined? The combination of the proximity of the walking and cycling route to private space and the building, taken with its continuous route through the site of limited width, results in a layout with poor definition between the public and private areas of the development. As has already been outlined, this would compromise the living conditions of future residents. However, an additional consequence would be the likelihood of users of the walking and cycle route feeling uncomfortably intrusive due to their presence encroaching into a seemingly private area. Their entitlement to use the space would be unclear due to the ill-defined layout and this may deter pedestrians and cyclists from using it. Therefore, the layout would fail to improve the character of the area and the way it functions.
26. Accordingly, the proposed layout fails to achieve a high quality design which consequently, would be harmful to the character of the area and the way it functions. On this basis, it would be contrary to policy DM35 of the LP. In addition, it would conflict with policy CP9 of the LP which amongst other matters, requires development to achieve a high quality of design which

contributes positively to making places better for people and which takes the opportunities available for improving the character and quality of an area and the way it functions.

Planning balance and conclusion

27. The proposal would provide for 9 apartments which would contribute towards, and diversify, the overall housing supply which would result in both short and long term economic benefits to the area. However, the relatively modest nature of the proposal overall, tempers the extent of these benefits. Therefore, I attribute moderate weight to this factor in favour of the proposal.
28. In support of the proposal the appellant asserts that the development would reduce anti-social behaviour at the site. However, there is little before me to suggest that anti-social behaviour is presently a concern and therefore, it is not shown that the development would result in a benefit in this regard. Even if there were concerns, the evidence does not show the development would be the only way to address it. Consequently, this matter is of little weight.
29. Reference is also made to the absence of objections from a range of statutory consultees and that, due to the separation distance retained, the proposal would not result in an unacceptable impact to the living conditions of existing residents. Notwithstanding the representations received from local residents, due to the distances and levels involved, I have little basis to find otherwise. Nevertheless, the absence of harm in relation to these matters does not weigh in favour of the proposal as a benefit and in any event, this would be a requirement of other development plan policies.
30. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise⁶. The benefits that the proposal would bring do not outweigh the significant weight given to the conflict with the development plan policies in relation to the walking and cycle route along the former railway line, green infrastructure, the living conditions of future residents and the character of the area.
31. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

Helen O'Connor

Inspector

⁶ Section 38(6) Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.