
Appeal Decision

Site visit made on 27 January 2020

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 January 2020

Appeal Ref: APP/N0410/W/19/3237373

Evreham Lodge, 100 High Street, Iver, Buckinghamshire SL0 9PJ

- 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 Amit Chohdha of Newhomes Estates Ltd against the decision of South Bucks District Council.
 - The application Ref PL/19/2135/FA, dated 21 June 2019, was refused by notice dated 6 September 2019.
 - The development proposed is described as 'the demolition of existing building, construction of 8 residential units contained within three blocks, conversion of 'coach house' to a residential unit with associated access, parking and landscaping'.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing building, the construction of 8 residential units contained within three blocks, the conversion of the 'coach house' to a residential unit and the associated access, parking and landscaping at Evreham Lodge, 100 High Street, Iver, Buckinghamshire SL0 9PJ, in accordance with the terms of the application, Ref: PL/19/2135/FA, dated 21 June 2019, subject to the conditions set out in the attached schedule.

Main Issues

2. The main issues in this appeal are:
 - Whether the proposed development would make adequate provision for affordable housing and be an efficient use of land;
 - The effect of the proposed development on Evreham Lodge, a non-designated heritage asset, and the character and appearance of the area;
 - The effect of the proposed development on highway safety; and
 - Whether the proposal would adequately manage any flood risk.

Reasons

Whether the proposal would make adequate provision for affordable housing

3. Core Policy 3 of the CS¹ states that at least 40% of all dwellings in schemes of five units and above (gross), or on sites of 0.16 hectares and above, should be affordable. The appeal scheme would provide nine dwellings, none of which

¹ South Bucks Core Strategy – Adopted February 2011

would be affordable housing. Thus, the proposal would be in conflict with Core Policy 3. A proposal should be determined in accordance with the development plan unless material considerations indicate otherwise.

4. As an important material consideration, the National Planning Policy Framework (the 'Framework') states that due weight should be given to a development plan policy that pre-dates the Framework (such as Core Policy 3 of the CS) according to the degree of consistency with the Framework.
5. With the above in mind, Paragraph 63 of the Framework states that the provision of affordable housing should not be sought for residential developments that are not major developments. The Framework defines major development as ten or more homes or where the site has an area of 0.5 hectares or more. The appeal scheme, which is for nine homes on a site of around 0.22 hectares, would not be major development and therefore affordable housing should not be sought.
6. As such, there is a serious inconsistency between aspects of Core Policy 3 of the CS and Paragraph 63 of the Framework, as the former seeks affordable housing on schemes that are not proposing major development. Locally specific evidence has not been provided to justify such an approach. Thus, I afford the conflict with Policy 3 limited, non-determinative weight.
7. In conclusion, by failing to provide affordable housing the proposal would be at odds with Core Policy 3 of the CS. However, in this instance a material consideration, namely Paragraph 63 of the Framework, indicates the proposal should be determined other than in accordance with Core Policy 3. Thus, the appeal scheme would make adequate provision for affordable housing which, in this instance, is no provision.

Whether the proposal would be an efficient use of land

8. A previous scheme² at the appeal site proposing ten homes was refused by the Council, but not overtly on grounds of over development. Thus, on the face of it, it would seem that ten homes could be accommodated in the appeal site, thereby triggering the provision of affordable housing as per the Framework. The appeal scheme before me is for nine homes and is therefore just below the threshold for affordable housing in the Framework. As such, careful consideration needs to be given to whether the appellant is seeking to artificially circumvent the ten-home threshold in the Framework by advancing an inefficient and ineffective use of land.
9. The number of homes proposed has been dropped from ten to nine in an attempt to address the previous reasons for refusal, particularly that relating to highway safety. In order to achieve adequate visibility, the site entrance has been moved towards the centre of the site. This seems necessary given the findings of the previous Inspector³. As such, the space available for a building along the site frontage is reduced and therefore the previously proposed building, which would have contained four flats if approved, has been decreased in size and would now contain two flats. However, the relocated access would enable the 'Coach House' to be retained and converted to a dwelling. These alterations would make use of nearly the entire width of the

² Application PL/18/2261/FA

³ Appeal reference APP/N0410/W/19/3227377

site frontage. The six homes behind would need to be set in from the site boundaries to provide space with neighbouring properties.

10. As such, there is no obviously apparent location where an additional home could be located without the site beginning to appear relatively over developed. The Council has not articulated how and where an additional home could be located. Nor has the Council disputed the appellant's proposition that the proposal would represent a density of around 41 dwellings per hectare. This is representative of nearby development, such as that at the 80-98 High Street and Croft Cottages. Such a density would also exceed the average density range set out in Core Policy 8 of the CS.
11. Moreover, the individual plots would be of a size commensurate to those nearby and would not appear underdeveloped when considering site coverage and building size and height. No evidence is before me to suggest the appeal site has been divided from a potentially larger development site.
12. As such, the appeal site would not exhibit the physical characteristics or appearance of having been discordantly underdeveloped and there is a clear rationale for providing nine homes instead of ten. Accordingly, the appeal scheme would be an effective and efficient use of land within the existing local context. Therefore, the evidence before me demonstrates the proposal would not amount to an unreasonable and artificial underdevelopment of the appeal site aimed at avoiding the provision of affordable housing.

The effect on Evreham Lodge and the character and appearance of the area

13. The Council has not taken issue with the proposed position of Plots 4-9 behind the frontage development and I share this view given the presence of Croft Cottages and the in-depth development at Bangors Close and Cecil Road. The proposed development would involve the demolition of Evreham Lodge and its replacement with a building of a comparable scale and appearance that would occupy a similar part of the site. The new building would be well detailed with timber windows and chimneys. Appropriate external materials would also be used⁴. Thus, the existing building would influence the design and layout of the proposed development. In this respect, the proposal would complement the surrounding built form and provide some visual continuity.
14. That said, Evreham Lodge is an attractive and imposing villa style residence with many of the original period details still evident, such as the sash windows, ornate chimneys and use of Iver brick. The brick walling around the rear garden, the walling and railings along the site frontage and the Coach House to the side of the main residence are also interesting and attractive historic features at the appeal site. The appeal site is generally in good condition and appears well preserved. Accordingly, it has a discernible aesthetic value that contributes positively to local heritage. The site also has an historic interest, being part of a discernible group of historic buildings probably dating from the 19th Century and representing a layer of the town's development. As such, the appeal site is a non-designated heritage asset (NDHA) of local significance.
15. The complete demolition of Evreham Lodge would result in the complete loss of this building's significance and the erosion of Iver's historic character. On a more positive note, the Coach House would be retained and converted. This

⁴ There is nothing before me to suggest some of the bricks in the existing building could not be reused.

would involve its original function as an ancillary building being lost, but it would be aesthetically improved through the removal of the double garage doors from the front elevation. The overall impact on its significance would be neutral. Similarly, there would be a neutral impact on the boundary walls around the garden, which would be retained. Replacing the front wall would harm this feature. Overall, there would be considerable harm to a NDHA.

16. Paragraph 197 of the Framework states that the effect on the significance of a NDHA should be taken into account when determining development proposals and that a balanced judgement will be required having regard to the scale of any harm and the significance of the heritage asset. The proposal would, overall, result in considerable harm to a heritage asset of local significance.
17. In balancing the impacts of the proposal upon non designated heritage assets, the previous Inspector⁵ found that the quality of the scheme then proposed would outweigh the loss of the NDHA. The appeal was dismissed so there is no fall-back position, however the Inspector's conclusions are nevertheless a significant material consideration because like applications should be considered in a like manner.
18. In this respect, the building that would house Plots 1 and 2 in the current scheme would be a marked improvement upon the design of the frontage building in the previous proposal. This is because the proportions and detailing would be more appropriate, being based on the existing building and those around it. This would include timber windows, natural slate roofs and a Flemish brick bond. Period details such as chimneys, balanced elevations, bay windows and decorative porches would provide a sense of integrity to the design.
19. The appeal scheme would also see the retention of the 'Coach House', which was proposed for demolition in the previous scheme. As such, the proposal before me is better than the previous scheme in terms of design and heritage impact. It would therefore be illogical and inconsistent for me to take a different view to the previous Inspector and find that the impacts on the NDHA would not be outweighed by the quality of the scheme, particularly when taken with the inherent economic and social benefits of providing eight (net) new homes in a highly accessible location within a built up area and at a point in time when the Council are apparently unable to demonstrate a five year housing land supply, as required to by the Framework.
20. In conclusion, there is much in the scheme that would not harm the character and appearance of the area. When taking a balanced view the harm to a NDHA would be outweighed by the high quality of the appeal scheme, which would include the retention of some heritage features, the scheme's ability to convincingly reference Evreham House and the benefits that would accrue from providing eight additional homes. Accordingly, there would be no conflict with Policy CP8 of the CS and Policy H9 of the Local Plan⁶.

The effect of the proposed development on highway safety

21. The width of the internal carriageway would decrease to 4.1m for 15m alongside the Coach House. Guidance in Manual for Streets indicates that it can be difficult for two cars to pass on a carriageway of this width. However, it does not state that a shared surface should be 4.8m in width or that it cannot be

⁵ In determining APP/N0410/W/19/3227377

⁶ South Bucks District Local Plan 1999 Consolidated 2007 and 2011

- 4.1m. Nevertheless, if motorists in two cars were attempting to pass one another there would be no space for pedestrians or cyclists. This could pose a risk to highway safety.
22. However, it is important to consider how likely it is that the above situation would occur. The Council and Local Highway Authority have not disputed the traffic generation assumptions set out in the appellant's Transport Statement, which suggest that the development would generate between 30 and 44 traffic movements per day. This is likely to result in 3-5 vehicle movements an hour when accounting for peak periods. As such, it would be unlikely that two cars would meet one another on a regular basis.
23. It would not take long for a pedestrian to traverse the 15m section that is 4.1m wide, a cyclist could move more quickly through this space. As such, there is a very low likelihood that pedestrians would be using the route at the same time that two cars are attempting to pass side-by-side. The route would be wide enough for a pedestrian/cyclist to pass a single car.
24. There would be good forward visibility along the route and vehicles would be moving slowly. Therefore, even if a pedestrian/cyclist met two vehicles seeking to pass in the 4.1m wide section of the carriageway, the pedestrian/cyclist would be able to wait for them to complete the manoeuvre. Alternatively, one of the motorists could wait for the pedestrian, cyclist or other motorist to move through the space. The slight curve in the carriageway would not seriously inhibit this. As such, there would be little prospect of a harmful collision. The low risk of a collision is therefore unlikely to discourage pedestrians and cyclists, even vulnerable ones, from using the route. Thus, the access would be safe and suitable and therefore the proposed layout would not present an unacceptable risk to highway safety. Accordingly, a conflict would not occur with Policy TR5⁷ of the Local Plan or the Buckinghamshire Local Transport Plan.

Whether the proposal would adequately manage any flood risk

25. Core Policy 13 of the CS states that all new development must incorporate Sustainable Drainage Systems (SuDS). To achieve this there may be a need for some upfront ground investigations to test the feasibility of such a system. However, Core Policy 13 is inconsistent with Paragraph 165 of the Framework, which only identifies major developments as needing to incorporate SuDS. As such, there is a serious inconsistency between Core Policy 13 of the CS and Paragraph 165 of the Framework. Locally specific evidence has not been provided by the Council to justify this inconsistency. Thus, I afford the conflict with Core Policy 13 limited, non-determinative weight.
26. Moreover, the appeal site is located within Flood Zone 1. Therefore, it is generally unnecessary for such development to be accompanied by a Flood Risk Assessment (FRA) unless the circumstances in Footnote 50 of the Framework apply. The appeal scheme would increase the extent of hard surfaces within the appeal site but there is nothing of substance before me to suggest any of the circumstances within Footnote 50 of the Framework are relevant and engaged. Consequently, the absence of an upfront FRA is not a matter weighing against the proposal.

⁷ The Council has acknowledged that its third reason for refusal inadvertently and inexplicably referred to Policies TR2 and TR3 of the Chilton District Local Plan

27. In conclusion, by failing to demonstrate that SuDS would not be feasible, the proposal would be at odds with Core Policy 13 of the CS. However, in this instance a material consideration indicates the proposal should be determined other than in accordance with Core Policy 13. This being the scheme's adherence to Paragraphs 163-165 of the Framework.

Other Matters

28. The Council has referred to the Draft Chiltern and South Bucks Local Plan. It is yet to be examined and is therefore not at an advanced stage of preparation and could be subject to significant revisions. Consequently, it is a matter of very limited weight that does not alter my overall conclusion.
29. The technical evidence before me does not demonstrate the residual cumulative impact on the road network, including congestion, would be severe and substantive evidence to counter this has not been submitted. I note the Local Highway Authority has not objected to the proposal on such grounds and the appeal scheme would include adequate levels of parking negating the need for motorists to regularly park in the High Street. Similarly, substantive technical evidence has not been provided to demonstrate the appeal scheme would harmfully impact upon air quality and again, I note the Council's specialist Environmental Health Officers have not raised concerns.
30. The appeal scheme has the potential to effect biodiversity. To this end, a bat survey has been submitted and this has indicated that the proposal would not result in harm subject to planning conditions being imposed. The Council's ecologist has not objected to the proposal.
31. I have not been provided with details of the Council's rather belated application (to Historic England) seeking the listing of Evreham Lodge. Notwithstanding this, the making of an application is not a material consideration of more than very limited weight as it could be without merit and thus have little prospect of success. In this respect, a previous application for listing has already been rejected. In any event, if the application is successful then Listed Building Consent would be required to demolish the building and it is open to the Council to serve a Building Preservation Notice in the interim.
32. Due to the intervening distance and development, the proposal would preserve the setting of Copt Hall and Little Iver, which are nearby listed buildings. For similar reasons, the proposal would preserve the setting of the Iver Conservation Area. I share the views of the Council, for the reasons set out in the Officer's report, that the proposal would not harm living conditions.
33. The noise and dust impacts from construction works would not be long term and can be controlled through a construction management plan. The occupation of the new dwellings would not result in unreasonable noise and disturbance given the ambient noise and the site's location in a built-up area. The site layout would not increase the risk of crime as the public spaces would be naturally overlooked.
34. The Council's Tree Officer has not objected to the felling of some of the trees. Many of the mature boundary trees would be retained and there would be space within the development to provide additional planting, particularly around the site boundary in order to soften the development. This can be secured through the imposition of a landscaping condition. The evidence before

me does not demonstrate local health and education infrastructure would be unable to cope with the additional households. As such, none of the other matters raised by interested parties justifies a different overall conclusion.

Conditions

35. When having regard to the advice in the Planning Practice Guide it is necessary to impose some of the conditions suggested by the Council. It is necessary in the interests of safeguarding the character and appearance of the area, and the living conditions of neighbours, to ensure that the development is undertaken in accordance with the approved drawings and that a scheme of landscaping, and details of external materials and hard surfaces, are approved. Similarly, it is necessary to secure the protection of landscaping and for the development to be implemented in accordance with the submitted arboricultural reports.
36. To protect living conditions, it is necessary to secure details of boundary treatment and construction management. In the interests of highway safety, it is necessary to secure the scheme of parking, garaging, refuse storage and manoeuvring and the implementation of the highway access prior to occupation. It is necessary in the interests of biodiversity, to secure the mitigation and enhancement measures set out in the appellant's submissions. In the interests of local heritage, it is necessary for the building to be appropriately recorded prior to its demolition.
37. Condition 10 suggested by the Council replicates Condition 7 and is therefore unnecessary. Given the absence of any evidence demonstrating a risk from surface water flooding, it is unnecessary to impose a condition requiring details of surface water drainage. There is no evidence that the site has been subject to historic contamination and the site has been a dwelling for a long period of time. Therefore, the risk of contamination is low. As such, only a condition dealing with unexpected contamination is necessary.
38. Some of the above conditions require resolution prior to the commencement of development since the works they relate to are so fundamental to the development permitted that it would have been otherwise necessary to refuse the whole permission.

Conclusion

39. For the reasons given above I conclude that the appeal should be allowed.

Graham Chamberlain
INSPECTOR

Schedule of Conditions

- 1) The development to which this permission relates must be begun not later than the expiration of three years beginning from the date of this decision notice.
- 2) A schedule of all materials and finishes to be used in the elevations of the development hereby permitted, including brick bonds and mortar mixes, shall be submitted to and approved by the Local Planning Authority in writing prior to the commencement of any construction works above ground level. Thereafter the development shall be carried out fully in accordance with the approved details.
- 3) A schedule of all materials to be used in the hard surfacing of the development hereby permitted shall be submitted to and approved by the Local Planning Authority in writing prior to the laying of such hardsurfacing. Thereafter the development shall be carried out fully in accordance with the approved details.
- 4) Prior to the commencement of the development hereby permitted, there shall be submitted to and approved in writing by the Local Planning Authority a scheme of existing and proposed soft landscaping.
- 5) The scheme of landscaping required by Condition 5 shall include indications of all existing trees, shrubs and hedgerows on the site and details, including crown spreads, of those to be retained, with details of tree protection measures. None of the trees, shrubs or hedgerows shown for retention shall be removed or felled, lopped or topped within a period of five years from the date of this permission.
- 6) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out by the first planting and seeding season following the occupation of the development hereby permitted or the substantial completion of the development, whichever is the sooner. Any trees, hedgerows or shrubs forming part of the approved landscaping scheme which within a period of five years from the occupation or substantial completion of the development, whichever is the later, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
- 7) The development shall be fully implemented in accordance with the Arboricultural and Planning Integration Report (Ref: GHA/DS/12760:18 and dated 14th June 2018) and under the supervision of a retained arboricultural specialist in order to ensure that the phasing of the development accords with the stages detailed in the submitted report and that the correct materials and techniques are employed on site during construction.
- 8) Prior to any works above ground level of the development hereby permitted (excluding demolition), details of the proposed boundary treatments shall be submitted to and approved in writing by the District Planning Authority. The approved boundary treatment shall be installed prior to the occupation.
- 9) The scheme for parking, garaging, refuse storage and manoeuvring indicated on the approved plans shall be laid out in full prior to the initial occupation of

the development hereby permitted and that area shall not thereafter be used for any other purpose.

- 10) The development shall not begin (including demolition) until provision has been made to accommodate all site operatives', visitors' and construction vehicles loading, off-loading, hoarding and parking and turning within the site during the construction period in accordance with a Construction Management Plan to be submitted and agreed in writing by the Local Planning Authority. Thereafter the development shall be carried out fully in accordance with the approved plan, unless otherwise agreed in writing.
- 11) Prior to the occupation of the development the new access to High Street shall be designed laid out and finished in accordance with the approved plans.
- 12) The development shall be undertaken in accordance with the recommendations provided within the Bat Survey report produced by David Archer Associates (September 2018) and prior to the commencement of development (excluding demolition), details of ecological enhancements shall be submitted to and approved by the District Planning Authority. The scheme must include details of native landscape planting and provision of artificial roost features, including bat boxes, to achieve a net gain in biodiversity. The approved details shall be implemented in accordance with a timetable submitted to and approved in writing by the Local Planning Authority.
- 13) Prior to commencement of works (including demolition) the building and site shall be recorded up to a Level 2 recording in accordance with Historic England's guidance document. Copies of the record would need to be deposited to the Local Planning Authority and Buckinghamshire Historic Environment Records prior to occupation of the development.
- 14) If, during development, contamination is found to be present at the site, then no further development shall be carried out until an investigation strategy and risk assessment and, where necessary, a remediation strategy and verification plan detailing how the unsuspected contamination will be dealt with has been submitted to and approved in writing by the local planning authority. No part of the development shall be occupied until the measures identified in the approved remediation strategy and verification plan have been completed, and a verification report demonstrating completion of the approved remediation works and the effectiveness of the remediation has been submitted to and approved in writing by the local planning authority.
- 15) The development to which this planning permission relates shall be undertaken solely in accordance with the following approved plans and drawings: 2199/01 2199/02A 2199/03 2199/04 2199/05 2199/06 2199/07 2199/08 2199/09 2199/10 2199/11 2199/12

End of Schedule