



Appeal Decision

Site visit made on 7 January 2020

by Martin Chandler BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 February 2020

Appeal Ref: APP/K0425/W/19/3238817

144 - 146 Kingsmead Road, High Wycombe HP11 1JB

- 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 Sekhon on behalf of Redsky Wholesalers Ltd against the decision of Wycombe District Council.
 - The application Ref 19/05916/FUL, dated 11 April 2019, was refused by notice dated 8 August 2019.
 - The development proposed is Demolition of 2no. existing detached dwellings and associated outbuildings. Erection of replacement apartment building providing 18no. dwellings (10no, 1 bed apartments and 8no. 2 bed apartments) along with associated parking, landscaping and altered vehicular access to Kingsmead Road.
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Decision

1. The appeal is allowed and planning permission is granted for Demolition of 2no. existing detached dwellings and associated outbuildings. Erection of replacement apartment building providing 18no. dwellings (10no, 1 bed apartments and 8no. 2 bed apartments) along with associated parking, landscaping and altered vehicular access to Kingsmead Road at 144 – 146 Kingsmead Road, High Wycombe HP11 1JB, in accordance with application ref: 19/05916/FUL, dated 11 April 2019, and subject to the conditions in the attached schedule.

Procedural Matters

2. The appeal site already benefits from planning permission for redevelopment¹. Development on the site has commenced, however, due to some enforcement activity, work has now ceased. That permission is for an apartment building however, this proposal seeks additional units. Accordingly, the proposal is materially different. Despite the previous consent, I have determined this appeal on the basis of the evidence before me and on its own merits.
3. Since refusing planning permission, the Council has adopted the Wycombe District Local Plan (August 2019) (LP). This plan supersedes the policies contained within the Wycombe District Local Plan to 2011 (As saved, extended and partially replaced) and the Wycombe Development Framework Core Strategy (2008).
4. Notwithstanding this matter, the plan was adopted before the appeal was submitted and the Council made reference to relevant emerging policies in their refusal reasons. In addition, where the Council has subsequently made

¹ Ref: 18/07114/FUL

reference to additional policies that they consider to be relevant, the appellant has had the opportunity to comment on the implications for the appeal. Accordingly, there has been no need to revert back to the parties on this point, and I have determined the appeal on the basis of the newly adopted plan.

Main Issues

5. The main issues are:

- i) the effect of the proposal on the character and appearance of the area;
- ii) whether the proposal would provide suitable living conditions for future occupants; and
- iii) the effect of the proposal on the living conditions for the occupants of neighbouring properties, having particular regard to privacy.

Reasons

Character and appearance

- 6. The proposed apartment building proposes accommodation over four floors with car parking provided at basement level. The composition of the front elevation would consist of two forward projecting, full height gable ends, either side of a recessed central section which would contain the principal entrance to the building. However, in contrast with the approved scheme, accommodation would be provided within the roofspace which would introduce two large openings that are centrally located in the apex of each of the two front projecting gable ends. Due to the height and width of these openings, a window guard would be installed externally. In addition, the accommodation within the roofspace would also introduce a number of rooflights within the roof itself. Moreover, the eaves and ridge height of the proposed building would be marginally taller than the previously approved development.
- 7. The additions to the fenestration would increase the number of openings within the front elevation. They would also emphasise the accommodation provided at the upper level, and in doing so would accentuate the increased height of the building. However, the positioning of the new openings would be such that the façade would continue to exhibit a balanced appearance. In addition, despite the marginally increased height, the eaves and ridge height of the building would remain lower than the adjacent development at No 142.
- 8. Consequently, due to the sensitive positioning of the additional windows and the relationship with the neighbouring building, I am satisfied that the front elevation would not appear cramped or overly busy. Instead, it would retain its simple, balanced design in a manner that would complement the prevailing street scene. In this respect, it would accord with the requirements of the National Planning Policy Framework (the Framework) which states that the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve.
- 9. Therefore, for the reasons identified above, I conclude that the proposal would not harm the character and appearance of the area. Accordingly, it would comply with Policies CP9 and DM35 of the LP as well as guidance contained within the Residential Design Guidance Document (Adopted 2017) (RDG), which taken together, require development to achieve a high quality of design

and appropriate character in the scale, form, layout and detailed design of buildings, and the structure and spaces around them.

Living conditions - future occupants

10. The appeal proposal would provide accommodation within the roofspace. Whilst this would result in the accommodation having sloping ceilings in certain areas, based on the evidence before me, these apartments would comfortably meet the Nationally Described Space Standards. Indeed, on this matter, the Council have confirmed that the floorspace provided would be acceptable.
11. Although some of the apartments would be primarily single aspect, they would also be served by rooflights to increase natural daylight. The rooflights and other openings would also ensure that the apartments are suitably ventilated. Consequently, due to the floorspace provided and the ample natural daylight that would also light the apartments, internally, I am satisfied that the apartments would provide suitable living conditions for future occupants.
12. To the rear of the development, a shared amenity space would be provided above part of the basement parking area. Due to this location, the amenity space would include a raised exhaust vent. In addition, the amenity space would be enclosed by a tall retaining wall, beyond which the land would steeply rise.
13. The presence of the exhaust vent would restrict the usability of the amenity space. In addition, due to the height of the retaining wall, this element would have a somewhat dominant appearance. However, this does not mean that the space could not be an attractive and valued aspect of the development and I have not been made aware of any minimum space standards for private amenity space. Furthermore, the Council have not provided any substantive or compelling evidence to articulate the specific harm of the vent and the retaining wall. In my view, subject to a suitably worded planning condition, the amenity space proposed could be landscaped in a manner that would enable it to be a functional and pleasant space. Consequently, I am satisfied that this element of the proposal would be suitable for future occupants.
14. The ground floor apartments would be provided with small areas of private amenity space immediately next to the shared amenity area. Whilst this location would inherently impact upon the privacy of these spaces, this would not render them unusable. The proximity of the spaces would be symptomatic of the apartment living being proposed, however, no compelling evidence from the Council has been provided to articulate the harm of this matter. Consequently, I have no reason to find this element of the proposal unacceptable.
15. In addition, despite not raising it as a reason for refusal, in their statement, it is suggested by the Council that the development should provide at least 4 apartments that comply with the enhanced requirements of the Building Regulations in relation to accessibility. This is so that the proposal would accord with the requirements of Policy DM41. The proposal would not achieve this requirement. In addition, despite the suggestion of the appellant that a suitably worded condition could be imposed to secure this matter, I have no evidence before me to confirm that such a condition could be reasonably complied with.

16. Nevertheless, regardless of the above, the precise requirement of the Policy relates to developments which are required to provide on-site affordable housing. In determining the proposal, the Council have been quite clear that due to the viability of the development, affordable housing is not a requirement of the development. Consequently, it follows that the requirements of Policy DM41 do not reasonably relate to the appeal proposal; a development cannot be required to meet enhanced technical standards for affordable housing, when it is not required to provide said affordable housing. Accordingly, I attach no weight to this policy in my assessment of the appeal.
17. Based on the evidence before me, it is apparent that the Council is firmly of the view that the previously approved scheme is a more favourable proposal. However, as identified above, I have to assess this proposal on its own merits. On this basis, I conclude that the proposal would provide suitable living conditions for future residents. Accordingly, it would comply with Policies DM34, DM35 and DM40 of the LP, as well as guidance contained within the RDG. Taken together, these require development to provide a level of privacy and amenity for future occupants appropriate to the proposed use, meet up-to-date nationally described technical housing standards for minimum internal space requirements, and protect and enhance green infrastructure features.

Living conditions – neighbouring properties

18. The proposal would introduce a staircase into the basement car parking area that would be located towards the shared eastern boundary. This would likely be a well-used staircase and its location would be close to the side of No 148. However, this neighbouring property has a wide, single storey side extension which does not have any windows facing the appeal site. In addition, the neighbouring property would be located at an elevated level above the location of the staircase.
19. The proposed staircase would terminate at ground floor level, rising from the basement. Therefore, the highest part of the stair would be at a ground level lower than the adjacent neighbour. Due to the width of the neighbouring extension as well as the existing and proposed land levels, there would be a large separation between the dwelling and the adjacent staircase. Consequently, the activity generated by this staircase would have a suitable buffer to the nearest windows of the neighbour. Accordingly, I am satisfied that this aspect of the proposal would not give rise to any overlooking of the neighbouring property.
20. The proposal would also contain a number of windows facing No 148 as well as towards the neighbouring development to the west of the appeal site. However, where these are present at upper levels, they would be glazed with obscure glass. Consequently, the privacy of the neighbouring properties would be suitably safeguarded.
21. I also note the concerns in relation to the effect on light levels to houses opposite the appeal site. However, Kingsmead Road is a wide carriageway and there is a substantial distance between the existing houses and the proposed development. Therefore, in the absence of any substantive evidence on this point, I have no reason to consider that light levels would be restricted.

22. For the reasons identified above, the proposal would not harm the living conditions for the occupants of neighbouring properties. Consequently, it would accord with Policy DM35 of the LP and advice contained within the RDG which seek to prevent significant adverse impacts on the amenities of neighbouring land and property.

Other Matters and Conditions

23. The proposal would comply with local requirements in terms of car parking provision. Accordingly, the Council have raised no objection to this element of the proposal. Whilst I note the concerns from neighbouring residents, I have no substantive evidence before me to disagree with the findings of the Council on this matter. However, I do agree that a condition in relation to cycle parking spaces would be necessary to ensure adequate provision.
24. The proposal would increase the number of apartments beyond the previously approved development. However, in relation to traffic, drainage and pollution, the existing consent is a material consideration of significant weight and I have no compelling evidence before me that the increased number of apartments would be to the detriment of these matters.
25. In light of my findings set out above, conditions are necessary to specify the time limit for the commencement of development as well as to establish the approved drawing numbers. In addition, condition 3 is necessary to ensure the use of suitable materials and finishes for the proposed development and condition 4 is necessary due to existing and proposed land levels.
26. Condition 5 – 9 are necessary in the interests of highway safety and conditions 10 - 13 are necessary to ensure that suitable landscaping and tree protection is proposed. Condition 14 is necessary to safeguard existing privacy levels however, I have made a small modification to enable ground floor windows to be clear glass. This is due to the limited effect that these windows would have on neighbouring properties.
27. Condition 15 is necessary to ensure water efficiency standards are met and condition 16 is necessary to ensure that suitable cycle facilities are provided for future occupants. Conditions 17, 18 and 19 are necessary to ensure that a suitable drainage scheme is proposed for the development.
28. Condition 20 is necessary to ensure appropriate refuse provision for future occupants, and condition 21 is necessary in the interests of living conditions for future occupants. Finally, condition 22 is necessary due to the location of the site within an Air Quality Management Area.

Conclusion

29. Despite the Council's reservations that the proposal would represent an overdevelopment of the site, I have found that in relation to the main issues, the proposal would be an acceptable form of development. Consequently, for the reasons identified above, the appeal should be allowed.

Martin Chandler

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 built in accordance with the details contained in the planning application hereby approved and plan numbers 17/44/01/B; 17/44/02; 17/44/03; 17/44/17/B; 17/44/18; 17/44/32/B; 17/44/33/A; 17/44/34; 17/44/35; WDC1; 17/44/40; 17/44/41; 17/44/42; 17/44/43; 17/44/44; 17/44/45; 17/44/46; 17/44/32/D; 17/44/31/B; 17/44/33/B; 17/44/30/A; 17/44/34/A; 17/44/35/A unless the Local Planning Authority otherwise first agrees in writing.
3. Notwithstanding any indication of materials which may have been given in the application, a schedule and/or samples of the materials and finishes for the development shall be submitted to and approved in writing by the Local Planning Authority before any work to the external finish of the development takes place. Thereafter, the development shall not be carried out other than in accordance with the approved details.
4. Drawings of the site identifying the following shall be submitted to and approved in writing by the Local Planning Authority before any further work take place;
 - (a) Existing ground levels on site (spot heights) including a datum point that is located off site. Levels should be Above Ordnance Datum (AOD).
 - (b) The level of the road outside the site. (AOD).
 - (c) The proposed levels on site following completion of the development (for each existing height a proposed height should be identified).
 - (d) The location and type of any retaining structures needed to support ground level changes.
 - (e) The Finished Floor Level for every building that is proposed.
 - (f) Cross sections within the site taken up to the site boundaries. The information supplied should clearly identify if land levels are being raised or lowered.
 - (g) In the case of residential development, sections showing the level of the proposed garden(s) and retaining structures. The development shall be carried out only in accordance with the approved details.
5. No other part of the development shall be occupied until the means of access have been altered and provided in accordance with the approved drawing and constructed in accordance with Buckinghamshire County Council's guide note "Commercial Vehicular Access Within Highway Limits" 2013. For the avoidance of doubt, this relates to the vehicular access at the rear of the site and at the front.
6. Within one month of the new / altered access(es) being brought into use all other existing access points not incorporated in the development hereby permitted shall be stopped up by raising the existing dropped kerb or removing the existing bellmouth and reinstating the footway and highway boundary to the same line, level and detail as the adjoining footway and highway boundary.

7. Notwithstanding the provisions of Part 2 of the Second Schedule to the Town and Country Planning (General Permitted Development)(England) Order 2015 (or any Order revoking or re-enacting that Order) no gates, fences, walls or other means of enclosure other than those shown on the approved plan shall be erected along the site frontage within 11 metres of the edge of the carriageway.
8. No dwelling hereby approved shall be occupied until 22 car parking spaces and the manoeuvring space all accessed from Kingsmead Road have been laid out and provided on site. The parking and manoeuvring space shall thereafter be retained and not used for any other purpose. No parking spaces shall be allocated to any individual flat.
9. Prior to the commencement of any works on the site, a Construction Traffic Management Plan detailing the management of construction traffic (including vehicle types, frequency of visits, expected daily time frames, use of a banksman, on-site loading/unloading arrangements and parking of site operatives vehicles) shall be submitted and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with such approved management plan.
10. A fully detailed landscaping scheme for the site shall be submitted to and approved in writing by the Local Planning Authority before any development, above damp proof course, takes place. The scheme shall include provision for:
 - Additional planting to compensate for the loss of some of the existing trees
 - Native trees to reflect the rural context of the site

The development shall be implemented in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

11. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner. Any trees, plants or areas of turfing or seeding which, within a period of 3 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, unless the Local Planning Authority first gives written consent to any variation.
12. The development shall take place in accordance with the arboricultural method statement (AMS) and tree protection plan submitted as part of the planning application. Any permitted works, Construction Exclusion Zone, and other works which are specified in the AMS will take place under the supervision of a retained arboricultural specialist. A single page report and photographic record showing the supervised works will be submitted to the Local Planning Authority within 7 days of each supervised event which will result in a certificate being issued by the planning authority upon completion.

13. Details of all screen and boundary walls, fences and any other means of enclosure shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter only be carried out in accordance with the approved details and the buildings hereby approved shall not be occupied until the details have been fully implemented. The screen and boundary walls, fences and any other means of enclosure which are part of the approved scheme shall thereafter be retained in accordance with the approved details unless otherwise first agreed in writing by the Local Planning Authority.
14. All windows above ground floor level, to be inserted into the side flanks of the building (including roof space) shall be obscurely glazed and non-opening to height of 1.7m above finished floor level. No further windows, doors or openings of any kind shall be inserted in the flank elevations of the development hereby permitted without the prior, express planning permission of the Local Planning Authority.
15. The development, hereby permitted, shall be designed and constructed to meet a water efficiency standard of 110 litres per head per day.
16. The approved cycle facilities shall be provided prior to occupation and thereafter the facilities shall be permanently retained, unless otherwise first agreed in writing by the Local Planning Authority. These facilities shall thereafter be so retained.
17. Construction works shall not begin until a surface water drainage scheme for the site based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development has been submitted to and approved in writing by the local planning authority. The scheme shall include a "whole-life" maintenance plan for the site and drainage system, and the development shall subsequently be implemented in accordance with the approved details.
18. Construction works shall not begin until a "whole-life" maintenance plan for the site has been submitted to and approved in writing by the local planning authority. The plan shall set out how and when to maintain the full drainage system (e.g. a maintenance schedule for each drainage/SuDS component) during and following construction, with details of who is to be responsible for carrying out the maintenance. The plan shall subsequently be implemented in accordance with the approved details.
19. Prior to the first occupation of the development, a verification report carried out by a qualified drainage engineer must be submitted to and approved by the Local Planning Authority to demonstrate that the Sustainable Urban Drainage System has been constructed as per the agreed scheme.
20. Details of facilities to be provided for the storage of refuse bins within the site shall be submitted to and approved in writing by the Local Planning Authority before any works above damp-proof course takes place. The facilities shall be provided in accordance with the approved details before the development that they relate to is first occupied and thereafter the facilities shall be permanently retained.

21. A scheme to protect the proposed development from traffic noise from Kingsmead Road shall be implemented before any part of the accommodation hereby approved is occupied, unless the Local Planning Authority otherwise agrees in writing. The scheme shall ensure the indoor ambient noise levels in living rooms and bedrooms meet the standards in BS8233:2014 for the appropriate time period. Unless otherwise agreed in writing with the Local Planning Authority it shall be assumed that the existing noise level at the façade of the proposed development is 72dB LAeq16 hour and 66dB LAeq, 8 hour. The scheme shall include mechanical ventilation to meet the requirements of the Noise Insulation Regulations 1975 as amended 1988.
22. Prior to the occupation of the development hereby permitted, 18 electric vehicle charging points must be installed. Thereafter the electric vehicle charging points must be maintained in full working order and, as such, a long-term management and maintenance plan shall be submitted in writing and approved by the Local Planning Authority.