



Appeal Decision

Site visit made on 7 January 2020

by S Thomas BSc (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 May 2020

Appeal Ref: APP/X0415/W/19/3237436

Chesham Service Station, Asheridge Road, Chesham HP5 2NT

- 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 W.E. Black Ltd against the decision of Chiltern District Council.
 - The application Ref PL/18/4879/FA, dated 21 December 2018, was refused by notice dated 1 July 2019.
 - The development proposed is the demolition of the existing structures and the construction of a block of 9 no flats with associated parking and landscaping.
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Decision

1. The appeal is allowed, and planning permission is granted for the demolition of the existing structures and the construction of a block of 9 no flats with associated parking and landscaping at Chesham Service Station, Asheridge Road, Chesham HP5 2NT in accordance with the terms of the application Ref PL/18/4879/FA, dated 21 December 2018, subject to the conditions set out in Schedule to this decision.

Procedural Matter

2. On the 1st April 2020 Chiltern District Council was merged with other local planning authorities into a new Unitary authority named Buckinghamshire Council. From this date Chiltern District Council is now called Buckinghamshire Council-Chiltern area.

Main Issues

3. The main issues are the effect of the proposal on (i) the character and appearance of the area; (ii) the supply of employment land; (iii) highway safety with particular regard to parking and the safety and convenience of users of the adjacent highway network; and (iv) the living conditions of future occupiers with regard to the provision of outdoor amenity space.

Reasons

Character and Appearance

4. The appeal site is currently occupied by vehicles sales and a repair garage and is located on a corner plot at the junction of Hivings Hill, Bellingdon Road and Asheridge Road. Given the prominent position of the site, the current use with the poor-quality buildings and the large areas of hardstanding has an untidy appearance and detracts from the area. The site is adjacent to existing

residential properties of varying styles and size and thus there is a diverse character to the area. The presence of 3 storey buildings is not uncommon in the area with a 3-storey block of flats located to the east of the site.

5. The proposed 3 storey block of flats would be a prominent feature in the street scene given the location at the corner of the junction. However, whilst it would be a notable addition to the street scene, it is of an acceptable standard of design and would act as a focal point on this corner plot. I acknowledge there are surrounding residential uses of lower storeys, however there is sufficient separation between them so that the proposed flats would not appear intrusive. Similarly, whilst the site is sloping the proposed flats would be sited adjacent to Asheridge Road with the street scene rising sharply along Hivings Hill. Therefore, given the level change of the existing residential uses along Hivings Hill the flats would sit into the hillside. When viewed from Bellingdon Road the proposed block would be viewed in context with the 3-storey block opposite and the elevated dwellings rising up Hivings Hill. Thus, a development of the scale proposed considering the surrounding context would not appear overly dominant or imposing.
6. The design of the building, with the use of a pitched roof and dormers would visually tie into the existing flats. In addition, there is sufficient separation between the building and the site boundaries so that it would sit comfortably amongst the proposed landscaped surroundings. The stepped in elevations would add visual interest and reduce the impact of the building and it would not appear overly bulky. The landscaping around the site would add a verdancy to the character of this part of the local area in contrast to the current expanse of hardstanding which substantially detracts from it.
7. For the reasons outlined above, I conclude that the proposal would not result in harm to the character and appearance of the area. Thus, it would not be in conflict with Policies GC1 and H3 of the Chiltern District Local Plan (1997) (including alterations adopted 2001) consolidated September 2007 and November 2011 (Local Plan) and Policy CS20 of the Core Strategy for Chiltern District (2011). Amongst other matters, these policies seek developments of a high standard of design which respects the character of the area and that the scale, height and siting is appropriate to the site and its surroundings. The proposal therefore also accords with the overall design objectives of the National Planning Policy Framework (the Framework).

Supply of employment land

8. Policy CS16 of the Core Strategy provides protection for existing employment sites and states that the loss of employment land to other uses will be acceptable where there is no reasonable prospect of the site being used for employment purposes. The existing business owner has confirmed they intend to close the business and thus have no future need for the site and also that the site owners have been unable to generate any interest within the motor trade to take the site over. Whilst it is accepted that there may be little demand for a vehicle sales garage in this location, nevertheless, the Council is concerned that it has not been demonstrated that the site has been adequately marketed for an alternative commercial use. Paragraph 12.6 of the supporting justification for Policy CS16 outlines that when considering proposals for conversion of employment floorspace to alternative uses, in order to establish

that there is no reasonable prospect of continuing commercial use, the Council will require appropriate evidence.

9. The appellant's evidence¹ demonstrates that a number of alternative employment uses have been considered at the site, including use as a petrol station, office use, retail use and light/general industrial use. Continued use as vehicle sales is unlikely to be economic given the current occupier utilises the site on a rent free basis, and the buildings would likely require investment to meet modern energy efficiency standards and to attract new occupiers. It is clear that in respect of the assessment of alternative uses there is either sufficient provision in the immediate area; that the site would not be of a size to meet requirements; there is a general oversupply of commercial property; or that the demand for such uses would be in alternative locations more attractive to the market.
10. In the case of offices, the Brasier Freeth report presents evidence on the availability in the supply of offices for let and for sale in the wider area which demonstrates there is a good supply of alternative accommodation which would be more attractive to the market. Further, there are a number of vacant office premises on existing sites in the area that have been marketed without take up for well over a year. In addition, the appeal site formed part of a larger employment site to the north which has subsequently been considered suitable for residential use and thus the appeal site now remains a small fragmented employment parcel surrounded by residential uses. All this leads me to the view that the existing site would unlikely to be attractive to those seeking office accommodation.
11. Whilst this is not a detailed marketing exercise, such an exercise is not required by Policy CS16. In any event, I consider the Brasier Freeth report presents sufficient appropriate evidence, in line with Policy CS16 to demonstrate that there is a limited prospect of demand from alternative employment uses to occupy the site. Consequently, the proposal would not result in an unacceptable loss of employment land. Thus, it would not be contrary to Policy CS16.

Highway Safety

12. The scheme proposes 11 car park spaces which is below the minimum provision of 18 spaces as required by Policy TR16 of the Local Plan. However, I note that the Council's evidence identifies that these policy standards are no longer set at a minimum but rather, are now recommended standards. I have also considered the provisions of Paragraph 106 of the National Planning Policy Framework which states that maximum parking standards for residential development should only be set where there is a clear and compelling justification that they are necessary for managing the local road network.
13. Whilst the proposed parking arrangement falls short of recommended standards by 7 spaces, it would be acceptable in terms of providing adequate space for manoeuvrability and space requirements and I do not consider that it would result in a contrived layout. The site is in an area which is within a reasonable distance to services, including public transport stops and a convenience store. Accordingly, there would be appropriate opportunities to promote sustainable transport modes and this justifies the proposed number of

¹ Assessment of Potential Future Use of a Property as Employment Land by brasier freeth dated 5 August 2019

car parking spaces. However, I do note the concern that a reduced level of parking provision at the site may increase demand for overspill parking along the adjacent highways.

14. I observed the presence of on street parking along Asheridge road adjacent to the site, however this did not appear excessive. I acknowledge this may vary at different times of the day. Given the current use of the site for vehicle sales, this will be attracting customers who will likely park on the highway. The trips associated with the use is likely to be greater than that of the proposed 9 flats. Further, given its location and provision of cycle stores it is reasonable to consider this will result in a reduced demand for vehicles. Thus, the proposal is unlikely to lead to a greater demand for on street parking than that exists at present. Whilst I accept parking along Asheridge Road may inconvenience users and there is a pressure for parking in the area, this situation exists at present and in my view will not lead to a materially worse effect as to cause an unacceptable impact on highway safety. Therefore, I consider the proposed parking provision below the recommended standards is acceptable.
15. The Council considers that a scheme is required to extend the double yellow lines along Asheridge Road opposite the appeal site and argues that this is necessary to prevent on street parking, which would otherwise create an obstruction for vehicles entering and leaving the site. The Council suggests that this should be achieved by the use of a planning obligation to provide a contribution of £15,000. No such obligation has been provided.
16. However, at my visit, I observed the parking of cars opposite the proposed access to the site which is currently in operation. Thus, the situation already exists and would not be compounded by the proposed development. I acknowledge the presence of parked cars would pose an inconvenience for construction vehicles accessing the site, but construction traffic would be temporary. Further, there would be an improvement to the highway situation as the development would have a lower level of traffic than that which currently exists. In addition, reducing the number of access points onto Asheridge Road as proposed would reduce the level of conflict between vehicles entering and leaving the site compared to the current situation. In addition, whilst on street parking exists, I do not find this would cause a significant obstruction to cars accessing onto Asheridge Road from the site. Thus, I do not consider that there is a compelling reason to require the provision of additional traffic control. Consequently, a legal agreement is not necessary, and nor would it meet the other relevant tests in the Framework.
17. For the reasons outlined above, the scheme would not result in unacceptable harm to highway safety. Thus, the proposal would not be contrary to Policies TR11, TR16 and TR3 of the Local Plan. Amongst other things, these policies seek that development provides parking in accordance with recommended standards and off-site highway improvements may be required in some circumstances.

Amenity of future occupiers

18. The scheme proposes a shared garden area for the occupants of the proposed flats. Policy H12 of the Local Plan states that in the case of flats a communal amenity area should be provided within the curtilage of the development which is adequate for the number of dwellings proposed. The supporting justification for the policy states that for two-bedroom units a minimum of 30 sqm per two-

bedroom unit should be provided. The scheme proposes 320sqm which exceeds that recommended amount.

19. Although occupiers would not have private space, they would have access to a larger landscaped area of outdoor space, which would include railings around the perimeter for security and would restrict access to the surrounding roads thereby providing a safe space for residents to enjoy. The provision of a shared outdoor space is a common feature in flats, and I consider this is acceptable in this scheme. I acknowledge the outdoor space is bounded by roads on both sides. However, this is not uncommon in residential estates and I do not consider that there would be unacceptable disturbance to occupiers caused by noise or pollution. Furthermore, the proposed perimeter hedge would provide privacy and landscaping and is a matter that could be secured by means of planning condition.
20. For the above reasons, I conclude the proposed amenity space for the flats is acceptable. Thus, I do not find conflict with Policies GC3 and H12 of the Local Plan which amongst other matters seek that developments provide good standards of amenity for future occupiers including adequate amenity space.

Other Matters

21. I have taken account of the comments made by interested parties and the opposition to the scheme. Whilst I acknowledge the 3-storey building will be prominent in local views I am satisfied that given the separation to Ash Grove this will not result in unacceptable overlooking to a degree that would harm the living conditions of those occupiers or restrict daylight to properties. Whilst views from existing properties may be altered this does not form a reason to withhold permission as it is not relevant to planning. Similarly, having considered the relationship between the proposed development and properties at Hiving Hill given the angled relationship between the windows of the proposed flats and windows of the existing properties and together with the separation distance including the highway, I do not find this would result in unacceptable overlooking or loss of light to neighbouring dwellings.
22. Whilst there may have been recent developments for flats in the local area, there is nothing before me to indicate the proposal in this appeal represents an excessive level. The proposed flats would serve a demand for those looking for this type of accommodation and is an appropriate residential use in this area. Whilst residents may prefer a development of smaller dwellings, I am only concerned with the merits of the scheme before me, which, for the reasons already given, I find to be acceptable.
23. I acknowledge concerns that the development may place pressure on infrastructure such as demand for schools and doctors. However, I have not been provided with any evidence to indicate the proposal will lead to an unacceptable impact on existing infrastructure. Whilst residents may be concerned about potential contamination this can be addressed through a suitably worded condition. Similarly, I recognise concerns regarding construction traffic. However, any disturbance during construction will be for a temporary period only and can be mitigated by careful construction management. Again, this is a matter that could be covered by condition.

Conditions

24. I have considered the Council's suggested conditions in light of the Framework and Planning Practice Guidance (PPG). Where necessary I have amended the wording of the suggested conditions, in the interests of precision and clarity, and in order to comply with advice in the PPG. I have imposed a standard condition relating to the commencement of development, and a condition specifying the relevant drawings in the interests of certainty.
25. In the interests of ensuring the satisfactory appearance of the development and living conditions of neighbouring properties I have imposed conditions to require the submission of details of the proposed finished floor levels, details of the materials of external surfaces of the proposed development, details of hard landscaping, proposed boundary treatments and proposed soft landscaping. Although the Council has not sought to impose a condition on contamination, given the previous use of the site and noting the comments of the Councils Environmental Health Officer I have imposed a condition that will deal with matters of contamination should they arise; in the interests of human health.
26. In the interests of Highway Safety, I have imposed conditions to ensure the submission of details for the management of construction and visitor vehicles during the construction period and to secure the implementation of the site access. In relation to the Councils suggested condition on the implementation of the site access I consider that the access can be implemented prior to construction as it is not necessary in advance of demolition works. Similarly, the 'Commercial vehicular access within the highways limits' is not before me, and therefore the appellant will need to submit the specification for approval. Reference to the requirements of the developer to enter into a S184 Agreement is a separate highway legal matter and does not need to be specified in the condition.
27. I have also imposed conditions to secure the closing up of the other existing accesses to the site in the interests of highway safety. I consider this should be implemented within 1 month of the access being implemented which is a reasonable period of time to undertake these works. A condition is necessary to require the implementation of the proposed cycle storage and bin stores to ensure the satisfactory appearance of the development, promotion of sustainable transport and the adequate provision of refuse and recycling facilities.
28. I have not imposed a condition seeking to restrict a number of permitted development rights as in line with the Town and Country Planning (General Permitted Development) Order 2015 a building containing one or more flats does not benefit from Permitted Development as defined within Classes A-E of Part 1 of Schedule 2 of the Order. In any event I am not aware of any similar restrictions applying to neighbouring properties that would justify the imposition of such a condition.
29. I have not imposed the Councils suggested condition for the implementation of double yellow lines, as for the reasons outlined above, I have concluded that a S106 legal agreement to secure these works is not necessary.

Conclusion

30. For the above reasons, the appeal succeeds.

Stephen Thomas

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: Site Location Plan Scale 1:1250, Site Plan Updated Drawing No 18/3486/1 Rev A, Floor Plans Drawing No 18/3486/2 Rev A, Elevations Plan Drawing No 18/3486/3 Rev A, Street Scene/Site Section Drawing No 18/3486/4 Rev A, Cycle and Bin Store Plan Drawing No 18/3486/5 Rev A.
- 3) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 14 days of the report being completed and approved in writing by the local planning authority.
- 4) Prior to the commencement of any construction works, full details of the finished levels, above ordnance datum, of the ground floor of the proposed building, in relation to existing ground levels shall have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.
- 5) Prior to the commencement of any construction works on site details of the scheme to accommodate all site operatives, visitors and construction vehicles loading, offloading, parking and turning within the site during the construction period shall be submitted to and agreed in writing by the

- local planning authority. The scheme shall be implemented thereafter for the duration of the construction works.
- 6) Prior to the commencement of any construction works on site the means of access shall have been constructed in accordance with the approved plans and to a specification submitted to and approved in writing by the local planning authority. The access shall be retained thereafter.
 - 7) Within one month of the new access being brought into use all other existing access points to the site shall be stopped up by raising the existing dropped kerb and/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.
 - 8) No development above slab floor level shall take place until details / samples of the materials to be used in the construction of the external surfaces of the development have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details/samples. The approved materials shall be implemented in accordance with approved details and thereafter retained.
 - 9) The development shall not be occupied until the scheme for parking, manoeuvring and the loading and unloading of vehicles is implemented in accordance with the approved plans. The parking, manoeuvring and loading area shall thereafter be retained for these purposes.
 - 10) The development shall not be occupied until details of the proposed boundary treatments for the site have been submitted to and approved in writing by the local planning authority. The approved boundary treatments shall be implemented prior to the occupation of the development in accordance with the approved details.
 - 11) The development shall not be occupied until the proposed cycle and bin stores have been implemented in accordance with the approved plans. The cycle and bin stores shall be retained for these purposes thereafter.
 - 12) The development shall not be occupied until the details of the scheme of hard landscaping within the site has been submitted to and agreed in writing by the local planning authority. The hard landscaping shall be implemented prior to the occupation of the development in accordance with the approved details.
 - 13) The development shall not be occupied until there has been submitted to and approved in writing by the local planning authority a scheme of soft landscaping. The scheme shall include details of the species, siting and numbers to be planted.
 - 14) 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 development 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.