



Appeal Decision

Site visit made on 27 October 2020

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 November 2020

Appeal Ref: APP/X0415/W/20/3257572

Holly Cottage, Ballinger Road, South Heath, Bucks HP16 9QH

- 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 B Pecotic (Leo Homes Development Ltd) against the decision of Buckinghamshire Council.
 - The application Ref PL/20/0842/FA, dated 6 March 2020, was refused by notice dated 1 July 2020.
 - The development proposed is described as erection of three dwellings, (two 4-bedroom and one 5-bedroom) each with a garage and amenity space. Retention of existing Holly Cottage in residential use, apart from demolition of its existing garage and replacement with a new garage at the rear of this property. Access to be obtained from the construction of a private drive connecting to Ballinger Road via the existing driveway serving Holly Cottage.
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Decision

1. The appeal is allowed and planning permission is granted for erection of three dwellings each with a garage and amenity space. Demolition of existing garage and replacement with new garage to rear of Holly Cottage. New vehicular access to be obtained from the construction of a private drive connecting to Ballinger Road via the existing driveway serving Holly Cottage at Holly Cottage, Ballinger Road, South Heath, Bucks HP16 9QH in accordance with the terms of the application, Ref PL/20/0842/FA, dated 6 March 2020, subject to the conditions set out in the schedule at the end of this decision.

Procedural Matters

2. The description of development in the header is taken from the application form. However, in my decision I have used the slightly amended description as set out on the appeal form and the Council's decision notice as it more succinctly describes the proposal.
3. The appeal form gives Chiltern District Council as the local planning authority. However, the decision notice was issued by Buckinghamshire Council.

Main Issues

4. The main issues are (i) the effect on the character and appearance of the area including whether the proposal would conserve and enhance the landscape and scenic beauty of the Chilterns Area of Outstanding Natural Beauty (the AONB), and (ii) the effect on the living conditions of the occupiers of 5 Lappetts Lane (No 5) in respect of privacy and outlook.

Reasons

Character and appearance

5. The rear of the site is a sizeable garden consisting of lawn interspersed with trees and bushes. The proposal would be seen from nearby private properties but it would be largely screened from local roads by buildings and vegetation.
6. The proposed plot sizes would be significantly smaller than some nearby properties, although this would not be readily apparent from the public highway. In any event, the size of nearby plots is inconsistent, and the depth of the proposed gardens would be comparable to some properties on Lappetts Lane and Meadow Lane. Therefore, the proposal would not be at odds with any marked uniformity in terms of plots sizes and it would not appear to be uncharacteristically cramped. The gardens would be about 15 m deep and so would accord with policy H12 of the Chiltern District Local Plan 1997 (LP).
7. The site currently makes a limited contribution to the attractiveness of the wider AONB due to its restricted visibility. Despite the introduction of buildings and hardstanding, the development would retain some vegetation and would include new planting. As such, it would reflect the verdant character of the locality and would contribute towards its natural qualities.
8. Consequently, I conclude the proposal would not harm the character and appearance of the area and would conserve the landscape and scenic beauty of the AONB. As such, in this regard, it would comply with LP policies GC1 and LSQ1. These aim, amongst other things, to ensure development is high quality design and to conserve or enhance the AONB's landscape.

Living conditions of occupiers of No 5

9. Rear windows on the nearest proposed dwelling would face towards No 5. However, the proposed ground floor windows would introduce no new vantage points compared to views currently possible from the appeal property's back garden. The provision of boundary features would obstruct significant overlooking from proposed first floor windows to No 5's garden and ground floor windows. Separation distances and the orientation of windows would ensure that there would be no intrusive loss of privacy in respect of No 5's rear bedroom window or side facing rooflight.
10. The nearest dwelling would be seen from No 5. Even so, it would be to the side and would be a sufficient distance from the boundary to avoid any significant overbearing effect to the neighbouring property.
11. For these reasons, I conclude the development would not harm the living conditions of the occupiers of No 5 in respect of privacy and outlook. As such, in this regard, it would comply with LP policy GC3 which aims, amongst other things, to provide good living conditions for the occupants of property.

Other Matters

12. A number of other matters have been raised. The position of the dwellings and windows would avoid an unacceptable loss of privacy, light or outlook in respect of any nearby properties. There is little evidence to substantiate concerns that the development would lead to unacceptable noise disturbance to the occupiers of any other houses.

13. The proposal would include adequate parking and an improved access and so would not prejudice highway safety. The development would cause no drainage problems and would not be detrimental to local amenities and facilities. If allowed, the scheme may encourage further housing development within the village, although this will not necessarily be undesirable. Any future proposal will need to be considered on its own merits and so granting planning permission would not set a precedent for unacceptable development.
14. The proposal would represent limited infilling in a village and so it would not be inappropriate development in the Green Belt. As such, it would accord with Green Belt policy as set out in the National Planning Policy Framework (the Framework) irrespective of any loss of openness.
15. Surveys have identified a single bat roost in the garage to be demolished and so the proposal would risk harm to a European Protected Species. However, proposed mitigation measures would ensure the favourable conservation status of bats is maintained. Also, the proposed housing would serve an overriding social public interest and there is no satisfactory alternative to provide access to the development without demolition of the garage. As such, the proposal would meet the derogation tests set out in the Conservation of Habitats and Species Regulations 2017 and there is no reason for Natural England to refuse to issue the required licence.
16. There is no justification to dismiss the appeal on any of the above grounds. As such, these considerations do not override my conclusion on the main issues.

Conditions

17. I have considered the planning conditions forwarded by the Council having regard to the tests set out in the Framework. Where appropriate, I have amended the wording of the suggested conditions for reasons of precision and to avoid unnecessary pre-commencement requirements.
18. A condition setting out the approved plans is required for reasons of certainty and to ensure the development is carried out in accordance with the drawings. To ensure a satisfactory appearance a condition requiring the approval of external materials is imposed. To avoid a potential pollution risk a condition is required relating to ground contamination.
19. To protect the amenity of adjoining residences a condition that relates to boundary features is needed. Conditions that require new planting and the protection and retention of trees and hedges are imposed to conserve the character of the area. To protect bats and enhance the biodiversity value of the site a condition is required in respect of ecological mitigation and enhancement measures, although no further information is needed as the ecological assessment provides sufficient details. For highway safety reasons conditions relating to parking, works to the access and visibility splays are imposed.
20. No substantial justification has been provided for the suggested condition that would remove permitted development rights and it is unclear which of the proposed dwellings this would apply to. As such, the condition would go against advice in the Framework and so it has not been imposed. Also, a condition requiring the submission and approval of slab levels is unnecessary as details are already on the appeal drawings.

Conclusion

21. For the above reasons, I conclude the proposal is acceptable and that the appeal should succeed.

Jonathan Edwards

INSPECTOR

Schedule of Planning 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: Drawings numbered SK-01 revision P13, SKL-01 revision P13, HT Plot 1 p.e revision P3, HT Plot 1 p.e.s revision P3, HT Plot 2 p.e. revision P3, HT Plot 2 p.e.s revision P3, HT Plot 3 p.e. revision P3, HT Plot 3 p.e.s. revision P3, HCP-01 e. revision P1, 0220-22-01, SECT-01 revision P2, GAR-01 p.e revision P2, GAR-02 p.e. revision P2, ST-2766-07, LA01 revision A.
- 3) No construction works above damp proof course level shall take place on any of the buildings hereby permitted until details of the materials to be used on the external surfaces of all the buildings have been submitted to and approved in writing by the local planning authority. The development shall be carried out using the approved materials.
- 4) No development hereby approved other than the demolition of the existing garage shall be carried out until an assessment of the risks posed by any ground contamination has 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 prior to the first occupation of any of the dwellings hereby permitted.
- 5) Prior to the occupation of any of the dwellings hereby permitted, full details of the boundary treatments for the site shall be submitted to and approved in writing by the local planning authority. The approved boundary treatments shall then be provided prior to the occupation of any of the dwellings hereby permitted and retained for perpetuity.
- 6) The landscaping works shown on approved drawing numbered LA01 revision A shall be carried out before any of the dwellings hereby

- approved is first occupied. The completed scheme shall be managed and maintained in accordance with the information provided with the approved landscape proposals plan.
- 7) The development hereby approved shall be implemented fully in accordance with the tree and hedge protection measures described in the Arboricultural Survey and Impact Assessment report dated February 2020 by Michael Paginton of West Waddy.
 - 8) No category B tree shown to be retained on the Tree Protection Plan in Appendix 5 of the Arboricultural Survey and Impact Assessment report dated February 2020 by Michael Paginton of West Waddy shall be removed, uprooted, destroyed or pruned for a period of five years from the date of the first occupation of the development hereby approved. If any retained tree or hedge is removed, uprooted or destroyed, or dies during that period, another tree or hedge shall be planted of such size and species as shall be agreed in writing by the Local Planning Authority.
 - 9) The development shall be carried out in accordance with the mitigation and enhancement measures set out in Sections 4 and 5 of the Ecological Assessment produced by GS Ecology and dated 25 June 2020. The mitigation and enhancement measures shall be provided prior to the first occupation of any of the houses hereby approved and shall thereafter be retained.
 - 10) Prior to the first occupation of any of the dwellings hereby approved, space shall be laid out within the site for the parking of cars and manoeuvring in accordance with the approved plans. These areas shall thereafter only be used for the parking and turning of vehicles.
 - 11) Prior to the first occupation of any of the dwellings hereby approved, the alterations to the access as shown on the approved plans shall be carried out in accordance with the Buckinghamshire Council guide note "Private Vehicular Access within the Public Highway".
 - 12) Prior to the first occupation of any of the dwellings hereby approved minimum vehicular visibility splays of 43 m from 2.4 m back from the edge of the carriageway from both sides of the existing access onto Ballinger Road shall be provided. Thereafter, the visibility splays shall be kept clear from any obstruction of 0.6 m above ground level.