



Appeal Decision

Site visit made on 20 October 2020

by J Williamson BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th November 2020

Appeal Ref: APP/X0415/W/20/3248721

Rowanlinden, 70 Long Park, Chesham Bois HP6 5LF

- 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 Paul Caraco, Beacon Associates, against the decision of Chiltern District Council.
 - The application Ref PL/19/3940/FA, dated 14 November 2019, was refused by notice dated 14 January 2020.
 - The development proposed is erection of one new house.
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Decision

1. The appeal is allowed, and approval is given for the erection of one new house, in accordance with the terms of the application Ref PL/19/3940/FA, dated 14 November 2019, at Rowanlinden, 70 Long Park, Chesham Bois HP6 5LF, subject to the conditions in the attached Schedule of Conditions.

Main Issues

2. The main issues are:
 - the effect of the proposal on protected trees, and
 - the effect of the proposal on the character and appearance of the area.

Reasons

Effect on protected trees

3. The site is located within an area covered by a Tree Preservation Order (TPO). As the trees within the site and surrounding area contribute to the character and appearance of the area, I shall deal with the matter related to trees first.
4. I note that the Council has already accepted removal of a significant number of trees within the site as part of the approved scheme for 3 dwellings. Based on the evidence before me, the proposal would result in the removal of the following trees: T21 (Lime, category C1), T23 (Horse Chestnut, C1), G13 (group of Holly, C2) and G22 (group of Cherry, B2).
5. Consequently, the proposal does not accord with saved Policy TW3 of the Chiltern District Local Plan 1997 (including alterations and consolidations 2001, 2007 and 2011), (LP), which states that development that would result in the loss of trees subject to a TPO will not be permitted. Additionally, as some of the trees (though only a minority, ie G22) are in sound condition and of good

amenity and wildlife value, the proposal would also not accord with saved Policy GC4 of the LP.

6. However, I note that T21 has localised decay on the main stem, T23 has a heavy lean to the south-east and G13 are small trees of little value. I also note that the appellant has offered to plant 8 mature trees within the site and a Beech hedge along the boundary with number 74 Long Park. Although the loss of any established trees is to be avoided, I consider that a replacement tree and hedge planting scheme, along the lines of that suggested by the appellant, would, in the medium to long-term, result in an enhancement to the tree quality on site. Given that the site edge covers an area much wider than the proposed plot, additional trees and hedges could be planted in various locations within and around the proposed plot. Such an enhancement would ensure that trees and hedges continue to make a positive contribution to the character and appearance of the area whilst also being of wildlife value.

Effect on the character and appearance of the area

7. The site is located within an established residential area of special character, key features of which are its low density and mature landscaping, with primarily detached dwellings sited in generous sized plots with a spaciousness around the buildings.
8. Saved Policy H4 of the LP requires development within such areas to maintain the special character of the area. The policy provides a list of criteria which new development must adhere to, which, in summary is as follows: plot size and shape should not vary significantly to those within the vicinity of the site; the plot should have an existing frontage to an existing road; plot widths across the frontage should be similar to others within the vicinity of the site; the siting of the proposed dwelling within the plot and the space between dwellings should accord with the prevailing character; the frontage line and building height should be generally maintained; the form of residential development should be maintained; the size, design and external appearance of the dwelling should be compatible with dwellings within the vicinity of the site, and important features of the street scene, such as trees, should be maintained.
9. I note that the site is accessed via a private driveway which serves 2 of the 3 dwellings recently constructed within the site. Hence, the criteria in saved Policy H4 referring to an existing frontage to an existing road is not applicable in this instance.
10. As regards the other criteria, I consider the proposed plot size, shape and width at the front would be comparable to those in the area. I consider the proposed siting within the plot and the resultant space between the proposed dwelling and neighbouring properties would be comparable to the spaces between other properties in the area. Although the frontage line would not follow that of the recently constructed dwellings, having a dwelling at the head of a cul-de-sac orientated at around 90 degrees to other properties along the cul-de-sac is not uncommon within the area; indeed, number 74 Long Park is one such example.
11. I consider the proposed detached dwelling would be of a size, height and design, and have an external appearance, that would be similar to other properties in the area. As such, it would be compatible with the dwellings within the vicinity of the site. Although some of the trees within the site would

be removed, I concluded above that with a mitigation scheme as indicated, which could be secured via conditions, this would enhance the positive contribution trees and hedges make to the character and appearance of the area.

12. Bearing the above factors in mind, I conclude that the proposed development would not harm the character or appearance of the area. As such, the proposal accords with saved policies H4, GC1, CS20 and CS4 of the LP and paragraph 127 of the National Planning Policy Framework (the Framework). These policies collectively require developments to have a high standard of design which reflect and respect the character and appearance of the surrounding area, maintain the special character of the area and ensure development is sustainable.

Other Matters

13. I note the range of issues raised by residents. In respect of access, turning, parking and highway safety, I note that the Local Highway Authority considered the proposal would not have a material impact on the safety or operation of the adjoining public highway. I have no reason to disagree with this conclusion. The proposal is for one additional dwelling. The traffic along Long Park, particularly at the north-eastern end, is likely to be limited and slow.
14. The repair of any damage to Long Park resulting from the construction phase would be a civil matter between the owners of the road and the developer. Future repair or maintenance of Long Park would be a matter between the people currently responsible for its repair/maintenance and future occupiers of the dwelling.
15. Due to the siting, orientation, design, positioning of fenestration and size of the proposed dwelling, I consider the proposal would not adversely affect the living conditions of occupiers of existing neighbouring properties.
16. The rear of the site abuts a Conservation Area (CA). With appropriate landscaping/tree mitigation conditions, I consider the character and the appearance of the CA will be maintained and that the proposal would have a neutral effect on the setting of the CA.
17. Although flooding and drainage issues have been raised, I have no substantive evidence before me which suggest that suitable drainage cannot be provided on site.
18. Concerns have been raised about dust, fumes and noise disturbance generated during the construction phase. I note that these would not be long-term issues and that in the short term the living conditions of existing occupiers could be adequately managed via the application of a construction management condition.

Conditions

19. Suggested conditions have been considered in light of advice contained in the Planning Practice Guidance (PPG) and tests within the Framework. Some have been amended or amalgamated for clarity, precision, elimination or duplication taking account of policy, guidance and comment.

20. To ensure identification of approved plans a condition listing the plans is attached. I have attached conditions relating to materials, landscaping, tree retention and protection to protect the character and appearance of the area. A condition requiring a Construction Management Plan is attached to protect the living conditions of occupiers of existing properties throughout the construction phase and in the interest of highway safety. A condition requiring boundary treatment details is attached in the interests of the character and appearance of the area and to protect the living conditions of occupiers of existing properties. In the interest of highway safety, I have attached a condition requiring provision and retention of car parking and turning areas. A condition requiring details of ground and floor levels is attached to protect the character and appearance of the area and living conditions of occupiers of existing properties. I have attached a condition removing certain permitted development rights in the interests of the character and appearance of the area, to protect the future well-being of trees on site and to protect the living conditions of occupiers of the immediate neighbouring properties.

Conclusion

21. Decisions are to be made in accordance with the development plan, unless material considerations indicate otherwise. I have concluded that the proposal accords with the development plan as regards saved policies H4, GC1, CS20 and CS4, and that it does not accord in respect of saved policies TW3 and GC4. However, due to the poor quality and limited amenity value of some of the trees proposed to be removed, along with the opportunity to improve the tree quality on site and enhance the contribution trees and hedges make to the special character of the area, I am allowing the appeal, contrary to the development plan.

J Williamson

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 Licence No 100047474, PJC 02, PJC 01, PJC 04, Tree Protection Plan Rev D
3. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i. the parking of vehicles of site operatives and visitors;
 - ii. loading, unloading and storage of plant and materials;
 - iii. the erection and maintenance of security hoarding or fencing;
 - iv. wheel washing facilities;
 - v. measures to control the emission of dust, dirt and noise during construction;
 - vi. a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - vii. delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

4. No development shall commence until a landscaping scheme, to include tree mitigation to enhance the tree and hedge quality within the wider site, has been submitted to, and approved in writing by the local planning authority. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
5. 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 approved dwelling or the completion of the development, whichever is the sooner. 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.
6. For a period of five years from the date of implementation of this permission, none of the trees or hedges on the site, other than those specified to be removed on the plans hereby approved (and in the Arboricultural Report Ref GHA/DS/13360:19a, dated 11 November 2019), shall be felled, topped, lopped or uprooted without first having received prior approval in writing of the Local Planning Authority. The existing soil levels around the boles of the trees so retained shall not be altered.
7. Prior to the development hereby approved being first occupied, details of the boundary treatments for the site shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be

erected/installed prior to the occupation of the dwelling being first occupied.

8. Prior to the commencement of development, detailed plans, including cross sections as appropriate, showing the existing ground levels and the proposed slab and finished floor levels of the dwelling hereby permitted, shall be submitted to and approved in writing by the Local Planning Authority. Such levels shall be shown in relation to a fixed datum point normally located outside the application site. The development shall be carried out in accordance with the approved details.
9. Before any construction work above slab level commences on site, details of the materials to be used for the elevations and roof of the dwelling hereby permitted, and surface materials for the paths and parking areas, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
10. Prior to the development hereby approved being first occupied, space shall be laid out within the site for the parking and manoeuvring of cars, in accordance with the approved plans. The parking and turning areas shall be retained and maintained thereafter without hindering their designated purpose.
11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order, with or without modification), no development falling within Classes A-F of Part 1, Schedule 2 of the Order shall be undertaken

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