



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: 9 December 2020

Appeal Ref: APP/X0415/W/20/3250241

3 Oakington Avenue, Little Chalfont HP6 6SY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Simco Homes Ltd against the decision of Buckinghamshire Council - Chiltern area.
 - The application Ref PL/19/2433/OA, dated 08 July 2019, was refused by notice dated 04 October 2019.
 - The development proposed is demolition of existing building and erection of three dwellings with associated access, car parking and amenity space.
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Procedural Matters

1. The application was made in outline with all matters reserved. The appellant's submission includes 2 proposed site plans. However, it is clear from the appellant's statement that these plans are for indicative purposes only. I have made my decision on this basis.
2. Although no ecological assessment was submitted with the planning application, the appellant has submitted an Ecological Appraisal (EA) with the appeal. I note that the Council consider the appraisal to have been undertaken for the purposes of a different scheme/planning application. Even if this were the case, it is the ecological assessment I have before me. I consider no one would be prejudiced as a result of me accepting the EA at this stage. I have therefore made my decision taking the EA into account.

Decision

3. The appeal is dismissed.

Main Issues

4. In assessing whether the proposal would be acceptable in principle, the key consideration is whether, from the evidence before me and my observations on site, an acceptable scheme would be capable of being devised at the reserved matters stage, ie acceptable with particular regard to:
 - character and appearance of the area;
 - living conditions of occupiers of existing neighbouring properties;
 - living conditions of future occupiers, and
 - protected species and biodiversity.

Reasons

Character and appearance

5. The site is located within a residential area on a street that mainly consists of detached bungalows along the western half and a mix of mainly detached bungalows and two-storey semi-detached dwellings along the eastern half. The neighbouring streets have a similar mix of properties, including one and a half storey dwellings. The overriding pattern of development along Oakington Avenue and the neighbouring streets is of properties fronting the roads, set behind front gardens and with good sized gardens to the rear.
6. The proposal would demolish the existing detached bungalow and sub-divide the plot between 3 dwellings. I acknowledge that the size of the existing plot is larger than that of some neighbouring properties. However, many of the surrounding properties are set within plots of at least a similar size to the site, and in many cases the plots are larger. I consider that sub-dividing the plot amongst 3 dwellings would result in each of the dwellings having a significantly smaller plot size than many of the surrounding properties, which would be out of keeping with the character and appearance of the area.
7. Moreover, given the site circumstances, although layout is a reserved matter, it is likely that 2 of the proposed dwellings would be sited behind one located towards the front of the site, broadly where the existing property is positioned. Consequently, this would result in a form of backland development that would not be in keeping with, and would erode, the predominant pattern of development in the area. Bearing these factors in mind, regarding character and appearance, I consider that an acceptable scheme of 3 dwellings would not be capable of being devised at reserved matters stage.
8. The proposal would therefore not accord with saved policies GC1 and H3 of the Chiltern District Local Plan-1997 (Inc. alterations and consolidations 2001, 2007 and 2011), (LP), or CS20 of the Core Strategy for Chiltern District-2011 (CS), which require development to be compatible with the character of the area.

Living conditions – occupiers of existing neighbouring properties

9. Due to key factors such as: scale being a reserved matter; the topography of the site; the siting of the neighbouring dwellings either side of the site and the positioning of fenestration on their respective rear elevations; planting that would remain within the rear gardens of the 2 neighbouring properties and boundary treatment that could be secured via a condition should I be allowing the appeal, I consider that a scheme of 3 dwellings could be devised at reserved matters stage which would have an acceptable effect on the living conditions of occupiers of existing neighbouring properties.

Living conditions – future occupiers of proposed dwellings

10. As noted above, the resultant plot sizes for each dwelling would be uncharacteristically smaller than those of neighbouring and surrounding properties. Consequently, it is likely that the extent of private outdoor amenity space associated with the dwellings would be much smaller than that of neighbouring and surrounding properties. However, it doesn't inevitably follow that the extent of private outdoor space would be unsatisfactory for future occupiers. Therefore, again I consider that a scheme of 3 dwellings could be

devised at reserved matters stage which would provide satisfactory living conditions for future occupiers.

11. I therefore conclude that the proposal accords with saved policy GC3 of the LP, which seeks to achieve good standards of amenity for future occupiers and to protect the amenities currently enjoyed by existing occupants.

Protected species and biodiversity

12. As noted, the proposal includes demolition of the existing dwelling on site and I consider it inevitable that an amount of flora would be removed from the site in order to satisfactorily accommodate 3 dwellings within it. I also note that there are trees beyond the site boundary, which could be used as foraging for bats. Within these circumstances the proposal has potential implications for protected species and biodiversity.
13. Bats are a European Protected Species (EPS). Circular 06/2005 advises that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before any planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.
14. The EA states that the existing dwelling is suitable for use by bats, and therefore should development involve removing the building (which the proposal would), further investigations would be required. I have not been provided with any evidence of further surveys having been undertaken. Consequently, it is not possible to conclude that bats would not be harmed as a result of the proposal. As such, I am not able to confirm that the proposal accords with Policy CS24 of the CS, which aims to conserve and enhance biodiversity in the District, including protecting and enhancing legally protected species.

Other considerations and planning balance

15. The parties agree that the Council cannot demonstrate a 5-year housing land supply (5YHLS). However, the parties have not intimated that they agree on the extent of the shortfall. Nor have I been provided with any details regarding the extent of the shortfall, what the Council may be doing to address the matter and how long this may take. However, the appellant suggests that there has been a shortfall in delivery of, on average, 44 dwellings per year since 2006 (ie 286 per year delivered compared with 330 per year identified as the local housing need). As the Council has not challenged this figure I have borne it in mind in the planning balance.
16. In accordance with the National Planning Policy Framework (the Framework) (sub paragraph 11 'd'), not having a 5YHLS triggers a presumption in favour of sustainable development, for which planning permission should be granted unless 'i) policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the proposed development, or 'ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. In this instance 11'd' 'i' does not apply; 11 'd' 'ii' is considered below.
17. The proposal would provide 2 additional dwellings; although this would not be significant in relation to addressing the shortfall, any additional dwellings would

be of benefit as housing land is in short supply. The proposal would also support the Government's objective to significantly boost the supply of housing. I therefore attach moderate weight to this aspect.

18. The site is located within an existing settlement and future occupiers would have suitable access to services and facilities to meet day to day needs, employment opportunities and public transport options. I attribute moderate weight to the suitability of the location. There would be minor economic benefits during the construction phase. However, as these would be small scale, I attach limited weight to this matter.
19. I note that the Framework promotes the efficient use of land, redevelopment of brownfield sites and use of suitable sites within existing settlements. However, the definition of previously developed land in the Framework excludes residential gardens in built up areas. Hence, the site does not constitute previously developed land. In addition, due to the concern outlined above regarding erosion of the pattern of development, I consider the site is not a suitable site for development. The Framework also places a high value on high quality design and developments being sympathetic to the character of the area. Consequently, the proposal does not accord with policies in the Framework as a whole.
20. My attention has been drawn to planning permission that has been granted for a single detached dwelling to the rear of number 1 Oakington Avenue, the plot/dwelling immediately north-west of the appeal site. Although I do not have all the details of this scheme, it seems to me like the 2 schemes are not directly comparable, mainly due to the plot of No 1 being at an end of the row of properties on the southern side of Oakington Avenue. As a result, the approved dwelling, which would be to the rear of No 1, would have the appearance of extending the row of properties west of No 1 along Amersham Road. Consequently, that approval does not have the same harmful effect on the pattern of development as the proposal before me. I therefore attribute no weight to the scheme at No 1. The appellant refers to other similar developments in the District. However, as I do not have any details of these cases I am not able to make any comparisons.
21. In light of the above, I conclude that the harm I have found in respect of character and appearance of the area and EPS, significantly and demonstrably outweigh the benefits outlined above, when assessed against the policies in the Framework as a whole. Consequently, the proposal does not benefit from the presumption in favour of sustainable development.

Conclusion

22. For the reasons outlined above, I conclude that the appeal is dismissed.

J Williamson

INSPECTOR