
Appeal Decision

Site visit made on 8 December 2020

by David Troy BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 December 2020

Appeal Ref: APP/P1940/W/19/3242846

**Banstead Down, Dell House and Woodlands, Old Chorleywood Road,
Rickmansworth WD3 4EH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Mr Vince Millen of Millen Homes Ltd against the decision of Three Rivers District Council.
 - The application Ref 19/1483/AOD, dated 24 July 2019, sought approval of details pursuant to condition No 1 of an outline planning permission, Ref 16/1669/OUT, granted on 21 October 2016.
 - The application was refused by notice dated 15 October 2019.
 - The development proposed is construction of three detached dwellings to include reuse of existing access from Old Chorleywood Road with alterations to access.
 - The details for which approval is sought are: scale, appearance and landscaping.
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Decision

1. The appeal is allowed and the details submitted pursuant to condition No 1 attached to outline planning permission Ref 16/1669/OUT, granted on 21 October 2016 in accordance with the application Ref 19/1483/AOD, dated 24 July 2019, and the plans submitted with it are approved, subject to the conditions in the attached schedule.

Procedural Matters

2. The original application for Outline Planning Permission for three detached dwellings¹ included means of access and layout and sought to reserve the matters relating to scale, appearance and landscaping for future approval. This reserved matters application has indicated that approval is sought for the scale, appearance and the landscaping for three detached dwellings.
3. Refusal Reason 1 on the Council's Decision notice relates to the development's contribution towards the provision of affordable housing. As part of the Council's appeal statement, the Local Planning Authority has confirmed that the Refusal Reason 1 as worded is not sustainable and they wish to withdraw this reason for refusal in respect of this proposal. As this matter is no longer being disputed, I have determined the appeal on this basis accordingly.
4. Refusal Reason 5 on the Council's Decision notice relates to whether the proposal makes adequate provision for storage and collection of refuse and

¹ 16/1669/OUT

recycling. Since the determination of the planning application, further information including a Refuse vehicle tracking Plan² has been submitted by the appellant. Based on the evidence provided by the appellant, the Council has confirmed that the details submitted are acceptable and would overcome this reason for refusal. As this matter is no longer being disputed, I have determined the appeal on this basis accordingly.

Application for costs

5. An application for costs was made by Mr Vince Millen of Millen Homes Ltd against the decision of Three Rivers District Council. This application is the subject of a separate Decision.

Main Issues

6. The main issues are the effect of the proposed development on:
 - (i) the character and appearance of the area;
 - (ii) the living conditions of the occupiers of the neighbouring properties at Nos. 131 – 135 The Drive and No. 4 Goosefields with particular regard to privacy and outlook; and
 - (iii) the existing trees on the site.

Reasons

Character and appearance

7. The appeal site comprises of a large open and verdant area of garden land at the rear of three detached two storey dwellings, with mature planting and a number of trees across the site, some of which are protected by Tree Preservation Orders.
8. The topography of the site slopes away from the Old Chorleywood Road towards the residential properties on The Drive to the west and Goosefields to the north of the site. A recently constructed dwelling known as Millen House is located immediately to the south of the site, with access via a long driveway off Old Chorleywood Road. The surrounding area is characterised by large detached properties of varying styles and ages set back from the road within large spacious landscaped plots primarily fronting onto the highway but with some backland style development. This provides a diverse mix of house types and variety in the design, density and appearance of the dwellings that gives the area a mixed well-established residential character.
9. The proposal would involve the erection of three detached two storey dwellings with associated landscaping, gardens and parking. The proposed dwellings would be stepped down to utilise the natural sloping topography of the site and set back from the adjacent residential properties, with vehicular access via a shared access driveway with Millen House off Old Chorleywood Road. The external finish of the dwellings would be predominantly constructed from brick with pitched tiled crowned roofs with dormers on the front and rooflights on the rear roof slopes.

² Appellant's Appeal Statement of Case Appendix 5 – Drawing no. OCWR RM 002

10. The appeal site is in a relatively large plot and as such the proposed development would not appear overlarge, relative to the overall plot size. Given the topography, boundary treatment and mature landscaping along the boundaries of the site, the proposal would only be visible over short distances from the adjacent properties and in limited glimpses between the buildings when passing the rear of the site. Given this context, to my mind, the development would not be unsympathetic to the streetscene nor would it appear cramped when taking into account the overall character of the area.
11. Turning to the scale and layout of the development. The layout of the development accords with the previously approved details from the outline planning application. The proposed dwellings would be seen in the context of the surrounding large two storey detached properties, including the large two storey detached dwelling with a catslide crowned roof at Millen House in the backland location immediately to the south of the site.
12. Against this backdrop, the scale, form and layout of the proposed dwellings would not look out of place or excessive in relation to the built form of the adjacent properties and the surrounding area. The design and layout of the proposed dwellings, set back and stepped down, together with the use of materials, fenestrations, landscaping and boundary treatment would ensure the proposal would sit relatively unobtrusively against the built form of the adjacent properties and would ensure that the overall proposal would not have a significant impact on the character and appearance of the surrounding area.
13. Consequently, I conclude that the proposed development would not cause significant harm to the character and appearance of the area. It would be consistent with the overall design aims of Policies CP1, CP3 and CP12 of the Three Rivers District Council Core Strategy 2011 (CS), and Policy DM1 and Appendix 2 of the Three Rivers District Council Development Management Policies Local Development Document 2013 (DMP). These policies seek, amongst other things, to ensure that development proposals are of a high standard of design that have regard to the local context and conserve and enhance the particular character and quality of an area.

Living conditions of the occupiers of the neighbouring properties

14. The proposed dwellings would set back from the rear elevations and the shared common boundaries of the neighbouring properties at Nos. 131, 133 and 135 The Drive (Nos. 131, 133 and 135) to the west and No. 4 Goosefields to the north of the site. The nearest proposed dwelling on Plot 3 would be set back and stepped down with a blank gabled end at first floor level facing the nearest windows to the habitable rooms and the garden at the rear of No. 4 Goosefields. The rear elevations and large gardens at the rear of Nos. 131, 133 and 135 would be separated from the appeal site by a high closed boarded fence and mature vegetation along the boundaries.
15. The outlook at the rear of Nos. 131, 133 and 135 and No. 4 Goosefields is already toward the rising land, boundary fence and the mature landscaping at the rear of the appeal site, that would be supplemented by additional landscaping and boundary treatment as part of the appeal scheme.
16. Whilst I accept that there would be some impact from the development, given the overall height and design of the proposed dwellings, set back and stepped down, together with the landscaping, boundary treatment, site levels and the

separation distance between the properties, I consider that the proposed dwellings would not result in significant harm to the privacy, nor result in significant overlooking of the occupiers in the rooms and garden area at the rear of the adjacent properties at Nos. 131, 133 and 135, nor dominate the views to cause an overbearing effect and an unacceptable sense of enclosure at the rear of Nos. 131, 133, 135 and No. 4 Goosefields.

17. Consequently, I conclude that the development would not result in significant harm to the living conditions of the occupiers of the neighbouring properties at Nos. 131, 133 and 135 The Drive and No. 4 Goosefields with particular regard to privacy and outlook. It would be consistent with overall amenity aims of Policy CP12 of the CS, Policy DM1 and Appendix 2 of the DMP. These policies and guidance seek, amongst other things, to ensure all proposals for new development will be of the highest quality design that protect the residential amenities of the neighbouring and surrounding properties.

Trees

18. The appeal site is an undeveloped area of land that contains a number of established trees within and close to the boundaries of the site, some of which are the subject of Tree Preservation Orders. Given the nature of the site and its surroundings, the Council have raised concerns regarding the lack of tree information submitted as part of the appeal proposal.
19. The appellant has indicated that a Tree Survey, Tree Protection and Arboricultural Impact Plan (Drawing no. WDB2016R2) was submitted to assess the impact of the layout and siting of the proposed development on the existing trees at the outline application stage and was subsequently approved as part of the original outline application. The Tree Survey, Tree Protection and Arboricultural Impact Plan (Drawing no. WDB2016R2) is a material consideration to which I attached significant weight.
20. The current application is supported by a Landscaping Plan (Drawing no. OCWR RM 001) and the Tree Survey, Protection and Arboricultural Impact Plan (Drawing no. WDB20162R) that shows the layout of the development and the position of the proposed dwellings in relation to the existing trees and their root protection area. In this respect, I am mindful that the Council's landscape officer has raised no objections to the proposal, subject to appropriate tree protection conditions being submitted and approved by the Council.
21. Based on the evidence before me, and the absence of any convincing evidence to the contrary from the Council, I am satisfied that adequate information has been submitted to assess the impact of the proposed development on the existing trees. Condition 7 attached to the original outline permission requires the submission of a Tree Protection Scheme and an Arboricultural Method Statement. This will ensure that the necessary mitigation measures are put in place prior to the commencement of the development in order to ensure their survival and to protect the visual amenity of the trees.
22. Consequently, I conclude that the proposal would be consistent with Policies CP1 and CP12 of the CS and Policy DM6 of the DMP, that seek, amongst other things, that development proposals conserve and enhance the natural environment and assets and incorporate measures to safeguard and manage the existing trees during and after development.

Other Matters

23. I have noted the objections raised by third parties to the proposal. These include the impact on the amenities of local residents, noise and disturbance, character of the area, previous planning history of the site, traffic, parking, highway safety, impact on trees, wildlife, biodiversity, flood risk, drainage, land stability, restrictive covenants and the impact during the construction works on the neighbouring properties.
24. However, I have addressed the matters relating to the character and appearance of the area, the living conditions of the neighbouring properties and existing trees in the main issues above. No objections were received from the Local Highways Authority and the Council's Landscape Officer, subject to appropriate planning conditions being applied to the proposal. The landscaping plan and Arboricultural Impact Plan would offer the opportunity to protect the existing trees and promote the biodiversity in the area, a key environmental objective of the National Planning Policy Framework (the Framework). Restrictive covenants are not material planning considerations to which I can attach significant weight in making my decision.
25. The other matters raised did not form part of the Council's reasons for refusal. I am satisfied that these matters would not result in a level of harm which would justify dismissal of the appeal and can be dealt with by planning conditions where appropriate, including those attached to the original Outline Planning Permission. In addition, I have considered the appeal entirely on its own merit and, in the light of all the evidence before me, this does not lead me to conclude that these other matters, either individually or cumulatively, would be an over-riding issue warranting dismissal of the appeal.

Conditions

26. Conditions attached at this stage are additional to those already attached to the outline approval and may only relate to the detailed matters submitted for approval. Having regard to the Framework, and in particular paragraph 55, I have considered the conditions suggested by the Council and I have specified the approved plans as this provides certainty. Those conditions relating to the approved landscaping plan and detailing of the boundary treatment are necessary in order to protect the character and appearance of the area and to safeguard the amenities of the nearby residents.
27. In light of my findings, given that the proposal is acceptable on its own merits for the reasons set above, there are no exceptional circumstances in this instance that would justify the removal of permitted development rights that are reasonable and necessary to make the development acceptable.

Overall Planning Balance and Conclusion

28. The Council accepts that it cannot demonstrate a five year supply of deliverable housing sites. In these circumstances, the Framework states that relevant policies for the supply of housing cannot be considered up to date if the local planning authority cannot demonstrate such a supply. Paragraph 11 of the Framework sets out the presumption in favour of sustainable development. For decision making this means that where the relevant policies are out of date, planning permission will be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

29. In terms of the adverse impacts, there would be limited negative effect on the area's character and appearance and the living conditions of the occupiers of the neighbouring properties. The proposal accords with the overall aims of the relevant design, amenity, tree protection and environmental development plan policies as outlined above. Other potentially adverse effects would be overcome or satisfactorily mitigated by planning conditions.
30. Against this, the appellant considers that the proposal would provide social and economic benefits through contributing to the supply and mix of housing in the area, providing construction jobs and supporting local services and facilities. These benefits are tempered by the scale of development, but nevertheless carry moderate weight in favour of the proposal.
31. In environmental terms, the appellant states that the scheme's design, landscaping, sustainable construction measures, efficient use of the land and the accessibility to services by other means of transport than the car would amount to environmental benefits and would help reduce emissions and mitigate climate change. These are key objectives of the Framework and are environmental benefits that carry moderate weight.
32. Consequently, overall, in my view, the adverse impacts arising from this development do not significantly and demonstrably outweigh the scheme's benefits. The proposal would therefore represent a sustainable form of development when assessed against the Framework taken as a whole.
33. For the reasons given above and having considered all other matters raised, I conclude that the appeal should be allowed.

David Troy

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 2219-142-S01, OCWR RM001, OCWR001 Rev. B, OCWR RM 002, OCWR002, WDB2016R2, OCWR 005 REV-1 (Plans & Elevations Plot 1), OCWR 005 REV-1 (Plans & Elevations Plot 2), OCWR 005 REV-1 (Plans & Elevations Plot 3) and OCWR 007.
- 2) All landscape works shall be carried out in accordance with the details approved in the Landscaping Plan (Drawing no. OCWR RM001). 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 dwellings 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.
- 3) Prior to first occupation of the development hereby permitted, a plan indicating the positions, design, materials and type of boundary treatment to be erected on the site shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be completed in accordance with the approved details before any of the dwellings are occupied and shall be retained thereafter.