



Appeal Decision

Site visit made on 22 March 2021

by Chris Couper BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 May 2021

Appeal Ref: APP/X0415/W/20/3252599

Land to the rear of 18 Botley Road, Chesham, Buckinghamshire HP5 1XG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
 - The appeal is made by Ash Mill Developments Limited against the decision of Chiltern District Council.
 - The application Ref PL/20/0616/PIP, dated 18 February 2020, was refused by notice dated 24 March 2020.
 - The development proposed is residential development of a minimum of two dwellings and a maximum of four dwellings.
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Decision

1. The appeal is allowed and permission in principle is granted for residential development comprising a minimum of two and a maximum of four dwellings at land to the rear of 18 Botley Road, Chesham, Buckinghamshire HP5 1XG, in accordance with the terms of the application Ref PL/20/0616/PIP, dated 18 February 2020.

Application for costs

2. An application for costs was made by Ash Mill Developments Limited against Buckinghamshire Council. This application will be the subject of a separate decision.

Procedural Matters

3. The decision on the application was made by Chiltern District Council. However, since then it has merged with other local planning authorities to form Buckinghamshire Council.
4. The proposal is for permission in principle. The Planning Practice Guidance ('PPG') advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has two stages: the first stage (or 'permission in principle') establishes whether a site is suitable in-principle and the second stage ('technical details consent') is when the detailed development proposals are assessed. This appeal relates to the first of these two stages.
5. The scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted. All other matters are considered as part of a subsequent technical details consent application if permission in principle is granted. I have determined the appeal accordingly.

Main Issue

6. The main issue is whether the location, land use and amount of development would be acceptable, having regard to the character of the area.

Reasons

7. This stretch of the southern side of Botley Road is located within an area identified in the Chiltern District Local Plan 1997 (Consolidated September 2007 and November 2011) ('CLP') and the Chiltern and South Bucks Townscape Character Study 2017 ('TCS') as an Established Residential Area of Special Character ('ERASC'). In contrast to the opposite side of the road, here the dwellings are typically substantial, of an individual design, and set within spacious grounds. They are arranged in a linear fashion, set well back from the road, often behind landscaped front gardens.
8. However, as demonstrated by Figure 1 in the Council's statement, whilst many plots in the ERASC have a linear shape, their size, width and depth are not consistent; and whilst some dwellings around the appeal site have particularly large rear gardens, there are significantly shorter rear gardens and smaller plots to the east. Moreover, given the set back of the dwellings from Botley Road, their physical bulk, and landscaping, the rear gardens are not generally apparent in the streetscene, and their contribution to the area's character is limited.
9. Amongst other things, the TCS sets out that within this 'Woodland Roads' townscape character area there is a need to retain existing plot ratios and rhythms, and to preserve soft green edges around settlements. However, at paragraph 2.3.13 it also identifies 4 to 6 Botley Road, immediately adjacent to the appeal site, as an area with particular potential for change.
10. The proposed dwellings would not affect the Botley Road building line and, although layout would be a matter for technical details consent stage, I have no cogent reason to conclude that development here could not maintain a 'green edge' where it would back onto the school playing fields. In this location they would have a minimal impact on the streetscene. Additionally, two to four dwellings here, would not result in a markedly different density, or a significantly smaller plot size, compared to some other development within this ERASC, particularly to the east.
11. Nevertheless, as the proposed dwellings would be well to the rear of the established linear row of dwellings facing Botley Road, the development's location would be at odds with the pattern of development within this ERASC. In this regard, the scheme would thereby be contrary to the character of the area.
12. That said, there is significant development in depth just outside the ERASC at Chesham Grammar School to the west. Additionally, based on correspondence provided with the appellant's letter dated 15 March 2021 regarding current planning application reference PL/20/1233/FA, officers broadly support significant development in depth at 4 to 6 Botley Road, which lies within the ERASC between the school and the appeal site.
13. An outline planning application for five detached houses on a larger site than this one, but partially contiguous with it, was dismissed at appeal in 2001 (Ref: APP/X0415/A/01/1056690) ('dismissed appeal'). In that appeal the

Inspector found that the layout of development on that irregular site would harm the ERASC, and that the proposed bellmouth on Botley Road would be out of character with the area.

14. However, this site is more rectangular in its shape than that one, and unlike it, this scheme could make use of the existing fairly wide access serving 18 Botley Road. I have no evidence that, to accord with current policies and guidance, a significant bellmouth would be required for this proposal.
15. CLP Policy H4 sets out, in broad terms, that proposals within the ERASC must maintain or 'conserve' its character, and it provides detailed criteria at (i) to (viii) that must be complied with. Those include that each dwelling plot should have a road frontage, and that the plot size and shape should not be significantly at variance with others in the vicinity.
16. However, this approach is not wholly consistent with the National Planning Policy Framework ('Framework'), particularly given its stance that development should be 'sympathetic' to local character, and that decisions should not prevent or discourage appropriate changes (such as increased densities). Consequently, I have attached only limited weight to the scheme's modest conflict with CLP Policy H4.
17. Amongst other things and in general terms, CLP Policy GC1, along with Policy CS20 of the Chiltern Core Strategy 2011 ('CCS') support good or high standard design, which reflects and respects the character of the surrounding area, including its relationship with its surroundings.
18. As the scheme would cause limited harm to the character of this area, there would be a slight conflict with those policies; along with the Framework's requirement for development to be sympathetic to local character and maintain a strong sense of place; and with the National Design Guide 2019 requirement to consider a site's context.

Other matters

19. Although not raised as an issue in its decision, in its appeal statement the Council sets out that it is 'highly likely' that ecological constraints may be present on the site, and that in accordance with CCS Policy CS24 an ecological appraisal is therefore required. Local residents voice similar concerns with reference to the area's flora and fauna.
20. I observed that the site comprises domestic garden which is largely laid to lawn with hedgerows and a few trees, particularly around its boundaries. However, it backs on to playing fields, rather than open countryside as described in the Council's statement. I have no persuasive evidence, such as a representation from a qualified ecologist, to indicate that there is a reasonable likelihood that protected species are present on the site and would be affected by the proposal.
21. Matters such as residential outlook, waste management, lighting, impacts during construction, the impact on adjacent occupiers' living conditions, and highways and access, are detailed technical issues and thus not generally before the decision maker in relation to an appeal against a permission in principle, but would be considered at the technical details consent stage.

22. That said, given the size of the appeal site and its relationship with, and distance to, the principal rear elevations of existing dwellings, including 20 and 22 Botley Road, I have no reason to conclude that this amount of development would have an unacceptable visual impact on adjacent occupiers.
23. Although significant harm as a result of noise and disturbance was cited in the dismissed appeal, that was for five dwellings with a slightly different access, and it included traffic calming measures with attendant noise from gear changes.
24. Whilst I cannot be certain whether background noise levels from the school have increased since then, at this planning in principle stage, I have no cogent evidence, or objection from Environmental Health Officers, to conclude that the potential impacts from comings and goings, and noise associated with typical domestic use of the proposed properties, could not be appropriately mitigated, in accordance with current national policy in the Framework, and the 'Noise' section of the PPG.
25. I therefore conclude, on the basis of the information before me, that the proposal would not conflict with CLP Policy GC3, which states that permission will be refused where amenities would be impaired to a significant degree.
26. With regards highways impacts, the footpath to the front of the site is used by pedestrians, including schoolchildren. However, notwithstanding the presence of a large tree close to the north-western corner of the site, I observed that there is reasonable visibility in both directions in this location, and I note that the County Highway Authority raises no objection to the scheme.
27. In its favour, the site is located within Chesham, which the CCS identifies as a 'main settlement for growth', and it is reasonably accessible to its services and facilities. The scheme would make an effective use of a small site, which I have no reason to doubt could be built out relatively quickly, thus contributing to housing supply, in accordance with Framework paragraphs 59 and 68, and supporting the local economy.
28. Crucially, the Council also acknowledges that it cannot demonstrate a five year housing land supply as required by Framework paragraph 73. Additionally, as a result of the Housing Delivery Test results (January 2021) it must now prepare an Action Plan to assess the causes of its under-delivery and to identify actions to increase delivery in future years. In that context, whilst only two to four dwellings would be delivered here, that is nonetheless a significant benefit.

Planning Balance and Conclusion

29. Given that the Council cannot demonstrate a five year housing land supply, the 'tilted balance' in the Framework is engaged, and in accordance with its paragraph 11 d) those policies which are most important for determining the application are out-of-date.
30. I have found that the scheme would cause limited harm to the character of the area, contrary to the development plan. In their approach to local character and distinctiveness, with the exception of CLP Policy H4, those policies are broadly consistent with the Framework.
31. However, the scheme would contribute to addressing the Council's housing shortfall, which is a significant benefit in its favour. The limited harm that it

would cause would not significantly and demonstrably outweigh all the benefits when assessed against the Framework taken as a whole; and although there would be a modest conflict with the development plan, this is a material consideration which weighs heavily in its favour.

32. In reaching that conclusion I have had regard to all representations received. However, for the above reasons the scheme benefits from the Framework's presumption in favour of sustainable development, and the appeal will be allowed.

Chris Couper

INSPECTOR