



Appeal Decision

Site Visits made on 18 February 2021 and 9 March 2021

by Scott Britnell MSc FdA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 June 2021

Appeal Ref: APP/X0415/W/20/3260780

Land at and to The Rear Of 104-110 Chartridge Lane, Chesham HP5 2RG

- 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 Dr Nick Lewis against the decision of Buckinghamshire Council.
 - The application Ref PL/19/4402/FA, dated 18 December 2019, was refused by notice dated 27 August 2020.
 - The development proposed is four new dwellings, garages and single storey rear extension to No.108 with associated works, including; demolition works to No.108, provision of vehicular access, parking, turning areas and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted four new dwellings, garages and single storey rear extension to No.108 with associated works, including; demolition works to No.108, provision of vehicular access, parking, turning areas and landscaping at land at and to The Rear Of 104-110 Chartridge Lane, Chesham, HP5 2RG, in accordance with the terms of application Ref PL/19/4402/FA, dated 18 December 2019 and subject to the conditions set out in the attached Schedule.

Application for Costs

2. An application for costs has been made by Dr Nick Lewis against Buckinghamshire Council. That application is the subject of a separate decision.

Preliminary Matters

3. The appellant originally applied for 'full planning permission for the erection of six dwellings, garages and rear single storey extension to No.108 with associated works, including; demolition works to No.108, provision of vehicular access, parking, turning areas and associated landscaping'. During the course of the application the proposal was revised and the Council based their decision on the description I have set out above. I have considered the appeal accordingly.
4. The Council refused planning permission as they considered that the depth of the garden areas would be insufficient to provide an adequate amenity space for future occupiers of the proposed dwellings. However, concerns have been raised by a number of third parties in respect of the effect of the proposed development on the character and appearance of the area. Based on the evidence before me and my own observations of the appeal scheme and from my site visit, this matter should form a main issue in this appeal.

Main Issues

5. The main issues therefore are a) whether or not the proposed development would provide for acceptable living conditions for future occupiers, with particular regard to the provision of outdoor garden space; and b) the effect of the proposed development on the character and appearance of the area.

Reasons

Living Conditions

6. Given each new dwelling would have four double bedrooms, one could reasonably expect them to potentially accommodate a significant number of occupants. The appellant states that, as a minimum, the widths of the rear private amenity spaces to the proposed dwellings would be 14.8 metres and 15 metres and that the depths would vary between 7.1 metres and 8.8 metres. The Council indicate that the dwellings would have private rear gardens ranging between 8 metres and 10 metres deep.
7. Saved Policy GC3 of the Local Plan (LP)¹ states that the Council will seek to achieve good standards of amenity for the future occupiers of development. Saved LP Policy H12 states that each new house should have a private garden area adequate for and appropriate to the size, design and amount of living accommodation proposed. The general standard expected will be a minimum rear garden depth of about 15 metres, which the proposed rear gardens do not meet.
8. Policy H12(c) states that in cases where adequate private amenity space exists within the application site or where the rear site boundary abuts an open field or open countryside, a reduced garden depth may be acceptable. As the appeal site abuts open fields, that exception would apply in this case. There is no evidence before me to suggest that future occupants of the proposed dwellings would have access to the fields. However, given the overall size of the rear gardens, even accepting the appellant's measurements, I do not consider that the future occupants of the proposed dwellings would need to rely on access to the fields to supplement their private amenity space. Further, while a new hedge would be planted along the rear boundary of the appeal site, Policy H12 does not require boundaries to be open.
9. In light of the above, there would be adequate outdoor space for the future occupants of the proposed dwellings to enjoy, including for sitting out, children to play in and the drying of washing. Thus, the proposed development would provide acceptable living conditions for the future occupants of the dwellings in regard to outdoor space provision. Accordingly it would comply with the policies I have cited above, as well as paragraph 127 of the National Planning Policy Framework (the Framework), which seeks to ensure that developments create places with a high standard of amenity for future users.

Character and Appearance

10. The dwellings along the section of Chartridge Lane where the appeal site is located have long rear gardens that provide a visual transition to the open fields beyond. The open, spacious and undeveloped nature of these gardens

¹ Chiltern District Local Plan Written Statement Adopted 1 September 1997 (Including alterations adopted 29 May 2001) Consolidated September 2007 & November 2011.

contributes positively to the area's character and appearance. However, there are a number of developments along Chartridge Lane where dwellings have been erected to the rear of properties. Some of these are on the opposite side of the road while others are located some distance from the appeal site. Nevertheless, these developments form the wider context in which the appeal proposals would be viewed.

11. Therefore, while the properties from Nos 94 – 114 Chartridge Lane do not feature any form of backland development, the proposals would relate satisfactorily to the wider established pattern of development in the area. Moreover, although the proposed dwellings would sit in smaller plots compared to the neighbouring properties, the spaces between and around the dwellings would ensure that the spacious character of the area is respected and that the development would not appear cramped.
12. The boundaries of both the Area of Outstanding Natural Beauty (AONB) and the Green Belt runs parallel to the rear of the appeal site. I note that the proposed dwellings would not extend further beyond Chartridge Lane than existing nearby development, including the Chiltern Hills Academy. As such, the proposed development would not intrude upon the setting of the AONB or the Green Belt to any greater degree than existing development in the area. Moreover, when viewed from land to rear of the appeal site the proposed development and any light associated with it, which given the residential use is unlikely to be significant, would be seen in the context of existing development.
13. Concerns have been raised by interested parties regarding the effect of the proposed bin stores on the character and appearance of the area. Although these would be situated close to the highway there would be sufficient space for these to be well screened by planting. Moreover, details of the proposed storage structures could be secured by condition.
14. I conclude that the proposal would not harm the character and appearance of the area and there would be no conflict with saved Policy GC1 of the LP and Policies CS20 and CS22 of the Core Strategy². In summary, these policies require that development is in scale with its surroundings, of a high standard of design and reflects the character of the surrounding area, including protecting the setting of the AONB. There would also be no conflict with Paragraph 127 of the Framework which seeks to ensure that developments add to the overall quality of the area and are sympathetic to local character and the overarching aims of the Framework with regards to protecting the AONB and Green Belt.

Other Matters

15. Although not forming part of the Council's reasons for refusal, a number of concerns have been raised by local residents regarding the effect of the proposals on highway safety. These relate to the increase in traffic on the local highway network, the width and safety of the proposed access and the lack of a pavement opposite the appeal site. From my own observations, the proposal would provide an adequate and safe access for occupants and visitors to the proposed development as well as for other road users, including vehicles, cyclists and pedestrians. The local highway network would be able to accommodate the likely number of vehicle movements associated with the proposals while vehicles exiting or approaching the appeal site would have

² Local Development Framework Core Strategy for Chiltern District adopted November 2011.

- good visibility. Moreover, the development would provide a suitable level of off street parking.
16. With regards to the proposed access road, concerns have been raised by local residents regarding the lack of a pavement. Given the limited length of the access serving the new dwellings and overall limited layout size, vehicles are likely to be traveling at low speeds. This, in conjunction with the width of the access road would be sufficient to mitigate the risk of collision between vehicles and other more vulnerable road users. It is noteworthy in this regard, that the Highways Officer raised no concern in relation to the lack of a pavement.
 17. I note the comments that the area experiences vehicles travelling in excess of the speed limit and that it suffers from unregulated parking associated with the nearby academy and rugby club. Whilst I note these concerns of local residents the Council raised no highway objections on this issue and I see no reason to take a different view.
 18. Concern has also been raised by local residents regarding the distance of the proposed bin store from the proposed dwellings. Although the bin store is located at the other end of the access road to the proposed dwellings, I do not consider that distance to be excessive and, as such, future occupants are likely to use the bin stores as and when necessary.
 19. Interested parties have raised concerns regarding the loss of garden area and the potential effect on biodiversity. The proposals would include areas of garden and landscaping, while the rear gardens to Nos 104-110 Chartridge Lane that would be retained would be sizable. As such, and in the absence of any substantive evidence to the contrary, I do consider that the proposals would not result in harm to the biodiversity of the area.
 20. I also note the concerns expressed by some local residents regarding the increase in traffic in the area and the effect that this may have on the environment. While the proposal may add to the level of traffic on local roads, it is for four dwellings, so is a small development, and there is no compelling evidence before me to suggest that it would contribute significantly to the issues that have been raised.
 21. Concerns have also been raised by local residents that the proposed development would cause harm to livery business to rear of the appeal site. However, no evidence has been provided to substantiate this suggestion and from my own observations there is no compelling reason why this would be the case.
 22. Notwithstanding the presence of a Eucalyptus tree in the rear garden of No 112 Chartridge Lane, the Council's tree officer has commented that the proposed development would not result in the loss of an important trees. I see no reason to reach a different conclusion.
 23. Issues have also been raised by local residents regarding the ownership of land within the appeal site. However, land ownership issues are a private matter and I have assessed the appeal on its planning merits.

Conditions

24. There are a number of conditions that the Council would wish to impose in the event that the appeal is allowed. Where I have attached the suggested conditions I have revised them accordingly so that they comply with the relevant tests set out by the Framework or for purposes of clarity.
25. I shall impose the standard plans condition for certainty. Given the location of the proposed development I shall attach a condition requiring a Construction Traffic Management Plan to be submitted to and agreed by the Council prior to any development taking place. This is required to ensure that the impacts of construction on the local highway network and the amenities of residents of neighbouring and nearby properties are properly managed.
26. The Council suggest conditions to ensure that any risk to the future users of the proposed development and neighbouring land from potential contamination at the appeal site is minimised. Although the most recent use of the site is as a residential garden, the proposed development would increase the number of receptors that could be exposed to contaminants of concerns that may be present in underlying soils. As such, these conditions are necessary. I shall also attach a condition requiring the submission of a surface water drainage scheme to ensure that the proposed development has an appropriate sustainable drainage strategy. The details required under these conditions shall be submitted prior to works commencing on site. I shall also attach a condition that requires details of the maintenance of drainage system to ensure its continued effectiveness.
27. Conditions are also sought requiring details of the existing ground levels and the proposed slab finished floor levels of the proposed dwellings and a scheme of landscaping. A further condition is sought to ensure that the tree and hedge protection measures set out in the Arboricultural Impact Assessment and the tree protection measures plan are implemented. These conditions seek to protect the character and appearance of the area and I shall attach them accordingly.
28. Also in the interests of the character and appearance of the area I shall attach conditions requiring the submission of details of the materials to be used in the construction of the proposed development, including for the dwellings, the new access road, parking and turning areas, as well as all boundary treatments and the bin storage areas.
29. In the interests of highway safety and to ensure that the proposed development has adequate parking and turning provision, I shall attach conditions requiring the provision of the proposed access road, the parking and manoeuvring areas and the stopping up of all existing access points.
30. The Council suggest removing permitted development (PD) rights for all development set out at Classes A – E of the General Permitted Development Order. Paragraph 53 of the National Planning Policy Framework (the Framework) states that planning conditions should not be used to restrict national PD rights unless there is clear justification to do so. I consider that in this instance given the sensitive location of the appeal site close to the Green Belt and AONB and its surroundings, the proposed restriction of PD rights is justified. It would ensure that the Council has control over such developments

in order to protect the character of the area and the living conditions of occupants of neighbouring dwellings.

31. A request has been made by an interested party that in the event that the appeal is allowed a condition is imposed requiring obscure glass be fitted to the roof lights of the proposed dwellings. Given the location of the roof lights and the relationship of the proposed dwellings to neighbouring properties, I do not consider that any significant overlooking would occur. As such, I shall not impose this condition. Conditions are also requested that the access road be constructed before any construction above ground development is commenced and that a boundary fence is erected to protect the horses in the field to the rear of the appeal site while the new hedge becomes established. Based on the evidence before me and my own observations I do not consider that such conditions are required and I shall not attach them.

Conclusion

32. For the reasons given above, having regard to the development plan as a whole, the approach in the Framework and all other relevant material considerations, I conclude that the appeal should be allowed.

Scott Britnell

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby approved shall be carried out in accordance with the approved plans and documents listed below:

TL-4328-19-2A, TL-4328-19-3, TL-4328-19-4B Plot 1, TL-4328-19-4B Plot 4, TL-4328-19-5B Plot 2, TL 4328-19-5B Plot 3, TL-4328-19-7A.

3. No development shall take place, including works of demolition, until a Construction Traffic Management Plan has been submitted to and approved by the local planning authority. The CTMP shall include details of:
 - a. the parking of vehicles of site operatives and visitors
 - b. loading and unloading of plant and materials
 - c. storage of plant and materials used in constructing the development
 - d. hours of construction; and
 - e. wheel washing facilities

The approved CTMP shall be adhered to throughout the construction period.

4. Prior to the commencement of any development on site detailed plans showing the existing ground levels and the proposed slab and finished floor levels of the dwellings 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 located outside the application site. Development shall be constructed in accordance with the detailed plans.
5. No development (other than demolition) shall begin until a surface water drainage scheme for the site, based on sustainable drainage principles has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is occupied. The scheme shall also include:
 - a. Water quality assessment demonstrating that the total pollution mitigation index equals or exceeds the pollution hazard index; priority should be given to above ground SuDS components
 - b. Existing and proposed discharge rates and volumes
 - c. Ground investigations including: Infiltration in accordance with BRE365
 - d. Subject to infiltration being inviable, the applicant shall demonstrate that an alternative means of surface water disposal is practicable subject to the drainage hierarchy as outlined in paragraph 080 of the Planning Practice Guidance.
 - e. Drainage layout detailing the connectivity between the dwellings and the drainage component(s), showing pipe numbers, gradients and sizes, complete together with storage volumes of all SuDS component(s) - Calculations to demonstrate that the proposed drainage system can contain up to the 1 in 30 storm event without

- flooding. Any onsite flooding between the 1 in 30 and the 1 in 100 plus climate change storm event should be safely contained on site.
- f. Construction details of all SuDS and drainage components
 - g. Details of how and when the full drainage system will be maintained, this should also include details of who will be responsible for the maintenance
 - h. Details of proposed overland flood flow routes in the event of system exceedance or failure, with demonstration of flow direction.
6. Prior to the first occupation of the development approved a whole-life maintenance plan for the drainage of the site must be submitted to and approved in writing by the local planning authority. The plan shall set out how and when to maintain the full drainage system (e.g. a maintenance schedule for each drainage/SuDS component), with details of who is to be responsible for carrying out the maintenance. The plan shall also include as as-built drawings and/or photographic evidence of the drainage scheme carried out by a suitably qualified person. The plan shall subsequently be implemented in accordance with the approved details.
7. Prior to the commencement of development hereby approved (or such other date or stage in development as may be agreed in writing with the local planning authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:
- i. A preliminary risk assessment which has identified: - all previous uses - potential contaminants associated with those uses - a conceptual model of the site indicating sources, pathways and receptors - potentially unacceptable risks arising from contamination at the site.
 - ii. A site investigation scheme, based on (i) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site. This should include an assessment of the potential risks to: human health, property (existing or proposed) including buildings, crops, pests, woodland and service lines and pipes, adjoining land, ground waters and surface waters, ecological systems, archaeological sites and ancient monuments.
 - iii. The site investigation results and the detailed risk assessment (ii) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
 - iv. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (iii) are complete and identifying any requirements for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved.
8. Following completion of measures identified in the approved remediation scheme and prior to the first use or occupation of the development, a verification report that demonstrates the effectiveness of the remediation

carried out must be produced together with any necessary monitoring and maintenance programme and copies of any waste transfer notes relating to exported and imported soils shall be submitted to the local planning authority for approval. The approved monitoring and maintenance programme shall be implemented.

9. Reporting of Unexpected Contamination: In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 7, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 7, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the local planning authority in accordance with condition 8.
10. Before any construction work above ground commences, details of the materials to be used for the external construction of the development hereby permitted, including the surface materials for the dwellings, new access road, parking and turning areas, shall be submitted to and approved in writing by the local planning authority. The development shall only be carried out in the approved materials and be retained as such thereafter.
11. Prior to the occupation of the development hereby permitted, the access onto Chartridge Lane shall be laid out in accordance with the approved plans and shall thereafter be retained as such.
12. Within one month of the new access being brought into use all other existing access points not incorporated in the development hereby permitted shall be stopped up by raising the existing dropped kerb and reinstating the footway and highway boundary to the same line, level and detail as the adjoining footway and highway boundary, and be retained as such thereafter.
13. The scheme for parking and manoeuvring indicated on the approved plans shall be laid out prior to the initial occupation of the development hereby permitted and those areas shall not thereafter be used for any other purpose. For the avoidance of doubt, this includes the garages which must not be converted to any other use than for the parking of vehicles.
14. The development hereby approved shall be implemented in accordance with the tree and hedge protection measures described in the Arboricultural Impact Assessment report dated 16/12/2019 Ref: 101 443 and those shown on the Tree Protection Plan dated 12/16/2019 in Appendix 2 of the document by Arbol Euro Consulting. This shall include the use of tree protection fencing and no dig construction in accordance with these documents.
15. No development above ground level shall take place until there has been submitted to and approved by the local planning authority a scheme of landscaping at a scale of not less than 1:500 which shall include indications of all existing trees and hedgerows on the land, with details of those to be

retained, those to be felled being clearly specified, and full details of those to be planted. This shall include full details of the locations, size and species of all trees, hedgerows and shrubs to be planted, removed and retained and should include the installation of bat and/or bird bricks and/or boxes.

16. 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 buildings 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, unless the local planning authority gives written consent to any variation.
17. Prior to the occupation of the development hereby permitted, full details of the proposed 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 erected/constructed prior to the occupation of the dwellings hereby permitted and retained thereafter.
18. Prior to the occupation of the development hereby permitted, full details of the proposed bin storage shall be submitted to and approved by the local planning authority. The bin store shall then be implemented in accordance with the approved details and thereafter permanently retained for bin storage.
19. Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order) no development falling within Classes A - E of Part 1 of Schedule 2 to the said Order shall be erected, constructed, or placed within the application site unless planning permission is first granted by the local planning authority.