
Appeal Decision

Site visit made on 22 June 2021

by C Osgathorp BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 July 2021

Appeal Ref: APP/N0410/W/20/3264775

Land South of Rowley Lane, Wexham, Buckinghamshire SL3 6PD

- 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 Terry Daniel (Daniel Family Homes) against the decision of Buckinghamshire Council.
 - The application Ref PL/20/1685/FA, dated 28 May 2020, was refused by notice dated 11 November 2020.
 - The development proposed is residential development consisting of 5no. dwellings with associated access and landscaping, following demolition of existing buildings associated with the livery and storage uses on site.
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Decision

1. The appeal is allowed and planning permission is granted for residential development consisting of 5no. dwellings with associated access and landscaping, following demolition of existing buildings associated with the livery and storage uses on site at Land South of Rowley Lane, Buckinghamshire, Wexham SL3 6PD in accordance with the terms of the application, Ref PL/20/1685/FA, dated 28 May 2020, subject to the conditions set out in the attached Schedule.

Application for costs

2. An application for costs was made by Mr Terry Daniel against Buckinghamshire Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The current appeal scheme follows a previous planning application at the site for the demolition of existing buildings and the erection of 2no. dwellings with associated access and landscaping, which was allowed on appeal¹ on 5 June 2017. In comparison to the previous appeal scheme, the current proposal comprises a larger appeal site, including land and buildings to the north, and proposes 5no. dwellings. The 2 new buildings on the southern half of the appeal site would be identical in size and design to the buildings approved under the previous planning permission but would each contain 2 dwellings (plots 1 – 4) rather than one. There would be a further building on the northern section of the site which would provide one dwelling (plot 5). I have had regard to the previous appeal decision as a material consideration, nevertheless I have considered the current proposal on its own merits.

¹ Appeal reference: APP/N0410/W/17/3169955

Main Issues

4. The main issues are:

- whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies; and,
- the effect of the proposal on the character and appearance of the area.
- the effect of the proposal on the Burnham Beeches Special Area of Conservation.

Reasons

Inappropriate development

5. The appeal site is located in the Green Belt. The Framework in paragraph 143 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework is clear that substantial weight should be given to any identified harm to the Green Belt. It outlines that the construction of new buildings, other than in connection with a small number of exceptions set out in paragraph 145, should be regarded as inappropriate development. Policy GB1 of the South Bucks District Local Plan 1999 (the Local Plan) seeks to restrict development in the Green Belt other than for limited forms of development. The Local Plan pre-dates the Framework and Policy GB1 does not fully reflect the exceptions set out in paragraph 145 of the Framework. I have therefore proceeded on the basis of the approach set out in the Framework.
6. There are a range of vacant single storey buildings spread across the appeal site that were previously used as part of an equestrian business, and the site also includes an area of hard-surfacing. The appeal scheme proposes to remove all the existing buildings on the appeal site and replace them with 5no. single storey dwellings. Nearby development consists of a linear arrangement of dwellings to the west in Wexham Street and to the north in Rowley Lane. The appeal site is surrounded on 3 sides by fields and it is accessed via a track leading from Wexham Street, which crosses one of the fields. The track would be widened as part of the proposal.
7. There is no dispute between the parties that the appeal site constitutes previously developed land. The exception set out in paragraph 145(g) of the Framework, concerns the limited infilling or the partial or complete redevelopment of previously developed land, providing that it would not have a greater impact on the openness of the Green Belt than the existing development. The Framework advises that openness and permanence are the essential characteristics of the Green Belt. Openness is the absence of development and it has both spatial and visual aspects.
8. The information before me indicates that the proposal would result in a total reduction of approximately 31% in the amount of floorspace being provided on the site by buildings. The proposed buildings would be of a modest single storey scale and would not be taller than the existing buildings that they would replace. Furthermore, the siting of the buildings, being grouped close together, would reduce the spread of built form across the site. This would be most notable towards the northern section of the appeal site where the existing

buildings would be removed and replaced by areas of soft landscaping. Taken together, these factors indicate that the proposal would be beneficial to the spatial openness of the Green Belt.

9. In visual terms, I acknowledge that the proposal would result in some domestic paraphernalia and activity, including the parking of vehicles, vehicular movements and the use of gardens. However, the previous use of the site would be likely to generate vehicular movements, parking and the outside storage of items and equipment associated with the keeping of horses. In this regard, I do not consider that the proposal would cause a material increase in activity and paraphernalia. As with the previous planning permission, the proposed dwellings would be contained to areas that are already occupied by buildings and hard-surfacing, and the residential curtilages would not extend into the adjacent paddocks. The proposed development would have a domestic appearance, which differs from the existing buildings that would be replaced, however the design and modest scale of the proposed dwellings would appear discreet in the surroundings. Furthermore, whilst I note that the existing access road would be widened slightly, this would not be a noticeable feature. Accordingly, the proposal would not result in a visual loss of Green Belt openness.
10. Having regard to the above factors, I find that the proposal would not have a greater impact on the openness of the Green Belt than the existing development and it would therefore meet the exception in paragraph 145(g) of the Framework. The proposal would not conflict with the purposes of the Green Belt, including: to check the unrestricted sprawl of large built-up areas; to prevent neighbouring towns merging into one another; and to assist in safeguarding the countryside from encroachment. Accordingly, the proposal would not be inappropriate development in the Green Belt.

Character and appearance

11. Whilst the appeal site is located in the countryside and surrounded on 3 sides by fields, it constitutes previously developed land and the proposal would result in a significant reduction of built form. The removal of buildings and provision of soft landscaping would provide some benefit to the character and appearance of the area. The proposed buildings would be of modest scale with low flat roofs, and therefore would not appear more prominent in the surrounding area than the existing development. The proposed development would have a domestic appearance, which differs from the existing buildings that would be replaced, however the design and modest scale of the proposed dwellings would appear discreet in the surroundings and viewed in context of the nearby residential development. Moreover, the increase in residential built form at the appeal site compared to the planning permission for 2 dwellings would be modest and would not result in a significant change of character.
12. The previous Inspector found that the widening of the access road would have a minor visual impact and would not have an urbanising effect on the fields over which it would pass. I see no reason to take a different view. I acknowledge that the proposal would generate vehicular movements and parking, however in my view this would not be materially greater than those that could be associated with the existing use of the site or the previous planning permission. Furthermore, I do not consider that domestic

paraphernalia associated with use of the gardens would be a noticeable feature in the surroundings.

13. I therefore conclude that the proposed development would have no adverse effect on the character and appearance of the area.

Burnham Beeches Special Area of Conservation

14. The appeal site lies within the 5.6km zone of influence of the Burnham Beeches Special Area of Conservation (SAC), which is a designated Habitat Site of nature conservation importance subject to statutory protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitats Regulations). The information before me indicates that the ancient pollarded beech and oak trees are the main features of importance for nature conservation, which are found in the southern part of the SAC. The trees are important because of the quantity and quality of the decaying wood habitat found within them and the species that are associated with this increasingly rare habitat.
15. The proposed development would not be directly connected with or necessary for the management of the SAC. In combination with other plans and projects across the area, the proposal could have a significant effect on the SAC as a result of the cumulative increase in population nearby. In these circumstances, the Habitats Regulations require that an Appropriate Assessment is carried out.
16. With regard to the above, Burnham Beeches is a popular destination for recreation and provides an attractive and accessible greenspace. The Council's evidence² identifies several ways in which public access and disturbance can have an impact on the nature conservation interest of the site, including: contamination; increased fire risk; trampling/wear; harvesting (e.g. fungi, wood); difficulties in managing the site; disturbance (e.g. birds and affecting the behaviour of livestock); fragmentation; hydrological impacts; vandalism; and air quality. The proposed dwellings would contribute to an increased population in combination with other plans, projects and developments in the area. Given the proximity of the development to the SAC, it is likely that this increase in population will lead to an increase in visitor and recreational pressure within the SAC. Taking into account the susceptibility and vulnerability of the important conservation features of the SAC to such use, it cannot be concluded that the development, in combination with other projects, would not adversely affect the integrity of the SAC.
17. The Council has produced the Strategic Access Management and Monitoring Strategy (SAMM) Supplementary Planning Document Adopted November 2020, which provides measures to avoid or mitigate the adverse effects of increased recreational pressures on the SAC from new residential development. It seeks to directly manage and avoid impacts at source and educate visitors. The SAMM sets out 6 projects, including the anticipated costs of those projects. This includes: electronic interpretation to educate visitors and provide information linked to visitor location; events and promotion of activities aimed at raising public awareness of recreation pressure and alternative places to visit (implemented by additional ranger resource); SAC Engagement Ranger/SAC Ambassador; visitor surveys; monitoring visitor impacts on soils and ecology of

² Liley, D. (2019). Impacts of urban development at Burnham Beeches SAC: update of evidence and potential housing growth, 2019. Report by Footprint Ecology for Chiltern and South Bucks Councils.

SAC; and, production of access plan/carrying capacity study. The SAMM seeks a financial contribution of £2,023.87 from each net new dwelling towards the costs of these mitigation projects.

18. Further to Regulation 63(3) of the Habitats Regulations, I have consulted Natural England as part of this assessment and had regard to their views in relation to the matter. Natural England is satisfied that a contribution towards the mitigation measures set out in the SAMM is sufficient to avoid an adverse impact on the integrity of the SAC.
19. The appellant has completed a Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990 to provide a contribution of £10,119.35 in accordance with the SAMM. The contribution would be necessary to make the development acceptable in planning terms; directly relate to the development; and is fairly and reasonably related in scale and kind to the development. Furthermore, with the planning obligation in place, I consider that the effects of this proposal on the SAC would be sufficiently mitigated so that no harm to its integrity would result.
20. I conclude that the proposed development would not have a harmful effect on the Burnham Beeches Special Area of Conservation. It would therefore accord with Core Policy 9 of the South Bucks Local Development Framework Core Strategy Development Plan Documents Adopted February 2011, which requires the conservation and enhancement of the Burnham Beeches SAC.

Other matters

21. I have had regard to the representations from neighbouring occupiers, which raise various concerns with the proposal. In respect of highway matters, the highway authority has raised no objection to the proposal, subject to conditions. The proposal includes a modest number of dwellings and it would not cause a significant increase in vehicular movements compared to the existing use. The highway authority has raised no objection in relation to the proposed alteration to the access road, and I see no reason to take a different view. There is no substantive evidence before me that the altered access road would cause damage to existing neighbouring hedgerows or property damage. Allegations of damage in the future would be a civil matter between the relevant parties. The proposal would provide 2 off-street parking spaces for each dwelling, which would accord with the Council's parking standards.
22. The appeal site is in Flood Zone 1, which is the lowest risk of flooding. A condition to require the implementation of the Surface and Foul Water Drainage Strategy would ensure the satisfactory disposal of surface water from the site. The appellant's arboricultural report³ includes suitable tree protection measures and I note that the Council's Tree Officer has raised no objection to the proposal. The appellant's ecological appraisal⁴ demonstrates that the appeal site is of limited ecological value, and there are no protected species that would be adversely affected by the proposed development. A condition to require details of a scheme of ecological enhancements to be submitted for approval could be imposed to provide a net gain in biodiversity at the appeal site.

³ Report on the impact on trees by John Cromar's Arboricultural Company Limited dated 7 July 2020 Ref. S93-J3-IA-1

⁴ Ecological Appraisal prepared by All Ecology dated June 2020

23. Given the modest scale of the proposed dwellings and the sizeable distances maintained to neighbouring properties, the proposed development would not cause a significant loss of light, outlook or privacy to neighbouring properties. The proposed residential use would be compatible with the neighbouring residential uses and would not cause a significant increase in noise or disturbance to neighbouring occupiers. Furthermore, the proposed residential use would improve natural surveillance of the site, which would aid security.
24. It is a well-established planning principle that each planning application should be determined on its own merits, which I have done in this case. The granting of planning permission would not set a precedent for similar future proposals as any such application should be determined on its own merits having regard to the specific circumstances of the case.
25. The proposal would contribute towards the supply of housing in the Borough and the future occupiers would support local shops and services. There is no substantive evidence before me that the proposal would have a detrimental effect on local infrastructure.

Conditions

26. In addition to the standard time limit condition, I have imposed a condition requiring the development to be carried out in accordance with the approved plans as this provides certainty.
27. In order to maintain the character and appearance of the area, I have imposed conditions relating to details of external materials of the development, hard surfacing and landscaping. A condition to require a scheme for ecological enhancements is necessary in order to achieve a net gain in biodiversity, in accordance with the Framework.
28. In the interests of highway safety, I have imposed conditions requiring that access, visibility splays and parking arrangements are provided. A condition to remove permitted development rights is justified to ensure that any potential future development would protect the openness of the Green Belt. Conditions relating to land contamination are necessary to ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters and ecological systems. A condition requiring implementation of the Surface and Foul Water Drainage Strategy is necessary to ensure the satisfactory disposal of surface water from the site.
29. A condition to require the removal of all existing buildings on the appeal site prior to the occupation of the proposed dwellings is necessary to protect the openness of the Green Belt.

Conclusion

30. For the reasons given above, I conclude that the appeal should be allowed.

C Osgathorp

INSPECTOR

Schedule of conditions

- 1) The development to which this permission relates shall be begun within a period of three years commencing on the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved drawings:-

D-01 A; D-02 A; D-03 B; D-04 A; D-06; D-07; D-08 A; D-09 A; and,

D-10 A.
- 3) No development shall take place above ground level until a schedule of materials to be used in the elevations of the development hereby permitted have been submitted to and approved by the Local Planning Authority in writing. Thereafter the development shall be carried out in accordance with the approved details.
- 4) No development shall take place above ground level until a specification of all finishing materials to be used in any hard surfacing of the application site is submitted to and approved by the Local Planning Authority in writing. Thereafter the development shall be constructed using the approved materials.
- 5) Notwithstanding any indications illustrated on drawings already submitted, prior to the occupation of the development a scheme of landscaping shall be submitted to and approved in writing by the Local Planning Authority. Details shall include indications of all existing trees, shrubs and hedgerows on the site and details, including crown spreads, of those to be retained. None of the trees, shrubs or hedgerows shown for retention shall be removed or felled, lopped or topped within a period of five years from the date of this permission, without the prior written permission of the Local Planning Authority.
- 6) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the development hereby permitted or the substantial completion of the development, whichever is the sooner. Any trees, hedgerows or shrubs forming part of the approved landscaping scheme which within a period of five years from the occupation or substantial completion of the development, whichever is the later, 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.
- 7) The development shall be implemented in accordance with the arboricultural method statement submitted and approved as part of the planning application and under the supervision of a retained arboricultural specialist in order to ensure that the phasing of the development accords with the stages detailed in the method statement and that the correct materials and techniques are employed.
- 8) Notwithstanding the provisions of Article 3 and Classes A, B & E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order, 2015 (or any Order revoking and re-enacting that Order with or without modification), no enlargement,

improvement or other alteration (including the erection of a garage, stable, loosebox or coach-house within the curtilage) of or to any dwellinghouse the subject of this permission, shall be carried out nor shall any building or enclosure required for a purpose incidental to the enjoyment of any said dwellinghouse as such be constructed or placed on any part of the land covered by this permission.

- 9) The development hereby permitted shall be carried out in accordance with the approved Surface and Foul Water Drainage Strategy dated July 2020, submitted and approved as part of this application.
- 10) No other part of the development shall be occupied until the existing means of access has been altered in accordance with the approved drawing and constructed in accordance with Buckinghamshire County Council's guide note "Commercial Vehicular Access within Highway Limits" 2013.
- 11) No other part of the development shall begin until visibility splays have been provided on both sides of the access between a point 2.4 metres along the centre line of the access measured from the edge of the carriageway and a point 43 metres along the edge of the carriageway measured from the intersection of the centre line of the access. The area contained within the splays shall be kept free of any obstruction exceeding 0.6 metres in height above the nearside channel level of the carriageway.
- 12) The scheme for parking and manoeuvring indicated on the submitted plans shall be laid out prior to the initial occupation of the development hereby permitted and that area shall not thereafter be used for any other purpose.
- 13) Prior to the commencement of development approved by this planning permission (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.
- 14) 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.
- 15) 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 13, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 13, 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 14.
- 16) Prior to any works above ground level, a scheme of ecological enhancements shall be submitted to, and approved in writing by the Local Planning Authority to ensure a measurable net gain in biodiversity will be achieved. The scheme will include details of new landscape planting of known benefit to wildlife and provision of artificial roost features, including bird and bat boxes, hedgehog domes and other appropriate features.
- 17) All existing buildings within the red line application site shall be removed in their entirety prior to the occupation of the dwellings hereby approved.