



Appeal Decision

Site Visit made on 1 September 2021

by M Chalk BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th October 2021

Appeal Ref: APP/J0405/W/21/3275224

9 Heath Road, Great Brickhill, MK17 9AL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by FSG Estates Ltd against Buckinghamshire Council - North Area (Aylesbury).
 - The application, Ref 20/04350/APP, is dated 18 December 2020.
 - The development proposed is construction of four dwellings and new vehicle access.
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Decision

1. The appeal is dismissed and planning permission for construction of four dwellings and new vehicle access is refused.

Preliminary Matters

2. The appellant lodged an appeal against non-determination after the expiry of the statutory period of determination as the Council had not issued a decision on their application. The Council has subsequently stated that they would have refused permission on grounds of the effect on heritage assets and on the character and appearance of the area, and a lack of information relating to the impact on bats. The appellant has had the opportunity to respond in their final comments.
3. The Vale of Aylesbury Local Plan was adopted by the Council in September 2021, replacing the Aylesbury Vale District Local Plan 2004. The appellant was invited to comment on the adopted plan.
4. The Government released a revised National Planning Policy Framework in July 2021. The main parties were invited to comment on the revised document.
5. The Council's reasons for refusing planning permission also included the absence of a legal agreement securing financial contributions deemed necessary as arising from the proposed development. The appellants have provided a unilateral undertaking with this appeal which the Council have said is acceptable. I see no reason to disagree with this, and therefore do not need to consider this issue further.

Main Issues

6. The main issues are therefore:
 - The effect of the proposed development on the setting of nearby listed buildings, the character or appearance of the Great Brickhill Conservation Area and the character and appearance of the area; and,

- The effect on biodiversity, with particular regard to bats.

Reasons

Heritage assets and character and appearance

7. The appeal site is located within the Great Brickhill Conservation Area (the CA) and lies to the side and rear of the Grade II listed buildings 7 and 9 Heath Road. The Council identifies the significance of the CA as arising from the mix of mostly individual dwellings of different size and scale, with little repetition in the overall form of buildings. I agree with this assessment of the significance of the CA. The listings for Nos 7 and 9 describe them as small houses of one storey with catslide dormers to the roof, and I find that their significance derives in part from their distinctive character within the wider street scene as well as their setting. To the other side of the site, No 15 is also a listed building. It is a thatched and whitewashed brick cottage set back from the road and I find that it derives its significance from its distinctive character and its relationship to its setting.
8. In accordance with the statutory duty set out in the Planning (Listed Buildings and Conservation Areas) Act 1990, I have paid special regard to the desirability of preserving the setting of the listed buildings, and to preserving or enhancing the character or appearance of the CA.
9. The front of the appeal site is prominent in the street scene, being raised significantly above road level. The front of the site is also higher than the ground level of Nos 7 and 9. As a result the proposed houses on Plots 1 and 2 would be particularly prominent in the street scene, especially in longer views from the west as the road slopes steeply downward. The hedge along the front boundary would provide some screening, but the extent of this would likely be limited as future occupiers would not wish it to restrict natural light to, or outlook from, their windows.
10. The houses on plots 1 and 2 would be single-storey cottages with catslide dormers to the front roof slopes, like Nos 7 and 9, and finished in similar materials to that pair of houses. However, they would have mirrored front elevations, where 7 and 9 are similar but with distinct differences, supporting the overall character of mixed individual properties in this area of the CA. As a mirrored pair finished in materials matching the neighbouring houses, the houses on plots 1 and 2 would be incongruous within this varied street scene. This aspect of the appeal proposal would therefore be harmful to the character of the CA and to the significance of the listed buildings as the new houses would diminish the distinctiveness of their appearance within the street scene. The effect would be heightened by the relatively prominent, elevated siting of the houses.
11. There are other pairs of houses of similar design within the Heath Road street scene. However, these are on the opposite side of the road and are relatively peripheral to the setting of 7 and 9. The existence of these other houses therefore carries limited weight in the determination of this appeal.
12. The houses on Plots 3 and 4 would be set to the rear of the site. This land was historically part of a large area of open land. It contributes to the setting of the listed buildings and to the significance of the CA by preserving space between the historic buildings at 7, 9 and 15 Heath Road with the more modern houses to the rear of these sites. The development of the rear of the site would

substantially reduce this open space, and be harmful to the setting of Nos 7 and 9 as well as to the character of the CA and the wider area. In addition, the elevated position of plots 3 and 4 would result in the houses on these plots being prominent in the wider area, which would further contribute to the harm to the setting of the listed buildings.

13. The development would involve the creation of a new access to serve the host dwelling and the four proposed houses, cutting through the raised bank at the front of the site. Similar accesses are provided to other properties on Heath Road, but the width of the access, extent of the internal road and the need to substantially remodel the raised bank would contribute to the overall scale of the development and the harm to the setting of the listed buildings.
14. Given the relatively small scale of the development, the harm to the character of the CA would be contained to the immediate surroundings of the site. The harm to the setting of the listed buildings would be partly offset by screening of the houses on Plots 1 and 2, and separation from the listed buildings to the proposed houses. Overall, the appeal proposal would result in less than substantial harm to the significance of the designated heritage assets.
15. The appeal proposal would be harmful to the setting of nearby listed buildings, would fail to preserve the character of the CA and would be harmful to the character and appearance of the area. It would therefore conflict with Policies BE1 and BE2 of the Vale of Aylesbury Local Plan (the LP). These policies require, amongst other criteria, that development should seek to conserve heritage assets in a manner appropriate to their significance, including their setting and respect and complement the physical characteristics of the site and the surroundings including the scale and context of the site and its setting. It would also conflict with the requirements of the National Planning Policy Framework (the Framework) regarding the conservation of designated heritage assets.

Biodiversity

16. The existing potting shed was found to contain a bat roost in an initial survey, although surveys carried out at that time did not observe any activity. A subsequent updated survey found evidence that the roost was not in active use. The Preliminary Ecological Appraisal recognises that a licence is required to legally permit the destruction of the roost. While the decision of whether a licence would be granted lies with Natural England, Circular 06/2005 requires that decision makers have regard to the tests set out in the Habitat Regulations that are used when licences are being determined.
17. Of these tests, the provision of new housing would amount to an imperative reason of overriding public interest. The location of the roost within the site would inhibit development of the site if it were retained, and therefore it is not considered that this would be a satisfactory alternative given the relatively modest nature of the roost. The development would include bat roosting boxes among other ecological enhancement measures, and this would ensure that the development would not overall be detrimental to the maintenance of the species.
18. It is therefore likely, if planning permission were to be granted, that a licence for the destruction of the existing bat roost would be granted. The development would consequently accord with Policy NE1 of the LP, which seeks to ensure the

protection of protected species and net gains in biodiversity, and the requirements of the Framework relating to habitats and biodiversity.

Planning Balance

19. The appeal proposal would create four new dwellings. This would support the Government objective of significantly boosting the supply of homes. Great Brickhill is recognised by the Council as being an acceptable location, in principle, for small developments such as this proposal. The four houses would be built to a high standard of sustainability, with solar panels, air source heat pumps and other measures weighing in the proposal's favour. Furthermore, there would be economic benefits from the construction of the houses in the short term, and in the long term from their ongoing occupation and support for services in the village.
20. Set against this is the great weight that must be given to the conservation of designated heritage assets irrespective of whether any potential harm amounts to less than substantial harm to their significance. Given the small scale of the development the public benefits would not be sufficient to overcome that great weight, and the additional weight arising from harm to the character and appearance of the wider area.

Conclusion

21. There are no material considerations to indicate that the appeal should be determined other than in accordance with the development plan. Accordingly, for the reasons set out above, the appeal fails.

M Chalk

INSPECTOR