



Appeal Decision

Site visit made on 19 April 2022

by Stuart Willis BA Hons MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 April 2022

Appeal Ref: APP/N0410/W/21/3281041

1 Hazelhurst Road, Burnham SL1 8ED

- 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 Nicholas Herbert against the decision of Buckinghamshire Council - South Area (South Bucks).
 - The application Ref PL/21/1216/FA, dated 24 March 2021, was refused by notice dated 11 June 2021.
 - The development proposed is erection of single dwellinghouse and double garage with associated landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Following the refusal of the application the new National Planning Policy Framework (Framework) has been published. Parties have had the opportunity to submit comments in relation to this.

Main Issues

3. The main issues of the appeal are the effects of the proposed development on:
 - The character and appearance of the area; and
 - The Burnham Beeches Special Area of Conservation.

Reasons

Character and Appearance

4. The existing property at 1 Hazelhurst Road (No 1) and the corner dwelling opposite are set in from their side boundaries in large plots. This, and their stepping down of the built form are generally consistent with other corner plots along Green Lane and contributes positively to its spacious feel, that is in contrast to some of the side streets leading from it.
5. The proposed property and garage would be set in from Green Lane a similar distance to the adjacent property. The resultant plot for No 1 would be narrowed but not to an extent that would be vastly different to others in Hazelhurst Road.
6. Nonetheless, the introduction of new built form in the side garden would still erode the existing spaciousness at this corner plot. In addition, the orientation of the property means it would be at odds with the pattern of nearby

development where properties directly face the roads they are accessed from. Moreover, it would present a largely blank elevation to the more visible Hazelhurst Road side. Furthermore, the dwelling would step up in height from the new garage and be incongruous with the pattern of built form stepping down at corner locations.

7. While the shared access would not be typical of the area, the width of the access would not appear excessive. Nevertheless, the combined parking and turning areas would be a considerable size and dominate the frontage of the site. This would unfavourably contrast with nearby frontages where landscaped areas frequently add to the verdant appearance of the streetscene and break up parking areas between properties.
8. There is a varied scale and appearance of properties in the wider area and the proposed external materials would not be uncommon. This includes bungalow style properties on corner plots. Nonetheless, these would not be seen with the proposed dwelling and are predominantly found in The Fairway where corner bungalows are characteristic and are set in large open fronted plots with main elevations facing both roads. The dwellings along Hazelhurst Road and Green Lane, that the appeal scheme would be seen with, are full 2 storey, often large properties.
9. The scale of the dwelling, atypical boxy flat roof dormers that would dominate the roof and only small, hipped roof elements would be incongruous with the properties the scheme would be seen with. The part hipped garage roof would also be at odds with the ancillary buildings in the same streetscene.
10. The scheme would retain the existing mature boundary vegetation by utilising the access already in place. However, the discordant layout, position and appearance of the property would still be glimpsed views from Green Lane over the vegetation, as well as being obvious in views from Hazelhurst Road and nearby properties.
11. Therefore, the proposed development would unacceptably harm the character and appearance of the area. It would fail to accord with the design and character protection aims of Policy CP8 of the Core Strategy¹, Policies EP3 and H9 of the Local Plan² as well as C1 of the National Design Guide. The scheme would also be contrary to the Framework where it seeks to ensure proposals are sympathetic to local character.

The Burnham Beeches Special Area of Conservation (SAC)

12. The site falls within the 5.6km catchment zone for the SAC where development needs to be mitigated. The SAC is designated due to the quantity and quality of the decaying wood habitat found within ancient pollarded beech and oak trees found on former wood pasture as well as heathland and valley mire.
13. There is a reasonable likelihood that the SAC would be accessed for recreational purposes by future occupiers of the development. Although small in itself, this may lead to the harmful disturbance of the habitat and is likely to have a significant adverse effect on the integrity of the SAC, when considered in combination with other residential development in the surrounding area.

¹ South Bucks Local Development Framework Core Strategy Development Plan Document

² South Bucks District Local Plan

14. In these circumstances, the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) require that an Appropriate Assessment (AA) is carried out. The Habitats Regulations also indicate that permission may only be granted after having ascertained that a scheme will not affect the integrity of the SAC. I may give consideration to any conditions or other restrictions which could secure mitigation and so provide certainty that the proposal would not adversely affect the integrity of the SAC.
15. An AA was undertaken during the application by the Council. I have sought further evidence and comments on this matter and NE was consulted in the course of the appeal. I have undertaken this AA on a proportionate basis and adopting a precautionary approach.
16. The information before me, indicates that NE and the Council consider that to avoid or mitigate adverse impacts from developments such as that proposed in this appeal on the natural habitats in the SAC, these can be managed, by a financial contribution towards the range of Strategic Access Management and Monitoring Strategy Projects listed in the SPD³.
17. The appellant has indicated they are willing to enter into a planning obligation for the contribution but not before any recommendation of approval. The Procedural Guide: Planning appeals – England, states that if the appellant intends to send a planning obligation and wants to be certain that it will be taken into account by the Inspector, they must make sure that it is executed, and a certified copy is received no later than 7 weeks from the start date.
18. There is insufficient information to demonstrate that conditions are an appropriate mechanism of securing a scheme for mitigation, and that they would meet the requisite tests in Planning Practice Guidance. No obligation has been provided and in the absence of one there is no means of securing the contribution.
19. Accordingly, I am not satisfied that appropriate mitigation has been secured. The evidence before me indicates that there is potential for recreational disturbance to the SAC through additional activity associated with the proposed development, which has the potential to affect the integrity of the SAC.
20. Where suitable mitigation cannot be secured the Habitats Regulations state that planning permission should only be granted if there are no alternative solutions, that there are reasons of overriding public interest and suitable compensatory measures are secured.
21. There is no compelling evidence to indicate that the appeal proposal is the only solution for such a scheme. Based on the individual merits of the case, the provision of 1 additional dwelling is not sufficient to amount to imperative reasons of overriding public interest. Finally, no compensatory measures have been put forward.
22. Consequently, having regard to the Habitat Regulations, permission should not be granted. The proposed development could result in harm to the integrity of the SAC and as such is in conflict with the Habitats Regulations, Core Policy 9 of the Core Strategy and the SPD.

³ Burnham Beeches Special Area of Conservation Strategic Access Management and Monitoring Strategy Supplementary Planning Document

Other Matters

23. The Council accept that they do not have an up-to-date 5 year housing land supply. However, the application of policies in the Framework that protect areas or assets of particular importance, in this case the harm to the SAC, provides a clear reason for refusing the development proposed. Therefore, in accordance with paragraph 11d)i of the Framework, the tilted balance in paragraph 11d)ii is not engaged.
24. The appeal scheme would be located in an area accessible by various modes of transport to services and facilities, and the general thrust of national policy seeks to boost housing provision. The contribution of 1 dwelling to the supply and mix of housing in the area would be minimal, as would be any economic benefits resulting from the construction period and spending of future occupiers.
25. Even if I were to agree that there was a lack of harm with regard to highway safety, recycling facilities, retention of landscape features and ecology these would be neutral effects and not weigh in favour of the scheme.
26. I did not see any properties of the same design as that proposed in the nearby area. Existing dormer bungalows would not be seen with the appeal scheme and were in a different context to the appeal site. Therefore, they are not directly comparable to the proposal before me.
27. While I appreciate that the appellant has sought to overcome issues from previous submissions, I have found sufficient harm to warrant dismissing the appeal. The conduct of the Council is not a matter that affects my findings on the main issues.

Conclusion

28. The proposed development conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweighs the identified harm and associated development plan conflict.
29. Therefore, for the reason given above, I conclude that the appeal should be dismissed.

Stuart Willis

INSPECTOR