



Appeal Decision

Site visit made on 19 April 2022

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd May 2022

Appeal Ref: APP/P0240/W/21/3285608

25 School Lane, Eaton Bray LU6 2DT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Luke O'Neill against the decision of Central Bedfordshire Council.
 - The application Ref CB/21/03235/OUT, dated 12 July 2021, was refused by notice dated 16 September 2021.
 - The development proposed is erection of two dwellings and associated works.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appeal proposal is for outline planning permission with all detailed matters except for access reserved for future approval. Whilst not formally part of the scheme, I have treated any details submitted with the appeal application relating to matters of appearance, landscaping, layout and scale as a guide to how the site might be developed.

Main Issues

3. The main issues are:
 - The effect upon the character and appearance of the area;
 - The effect upon the living conditions of neighbouring occupiers, having particular regard to noise and outlook;
 - The effect upon highway safety, having particular regard to vehicular visibility; and
 - The effect upon the Chilterns Beechwoods Special Area of Conservation (the SAC).

Reasons

Character and appearance

4. The site is, for the most part, comprised of a sizeable expanse of residential garden land that is situated to the side and rear of No 25 School Lane (No 25) as well as to the rear of Nos 27 and 29 School Lane (Nos 27 and 29). I observed no existing trees on-site owing to recent removals. Even so, a well-vegetated park is situated to the site's rear. This park, despite falling within the Green Belt, is neighboured by built development to much of its perimeter.

5. No 25 forms part of an established row of residential dwellings that tend to be positioned towards the frontages of generously sized individual plots. Nevertheless, there is no distinct sense of uniformity when the composition and lay out of the properties that comprise this row are compared. Indeed, house types and garden depths/shapes vary, and a range of differently sized and designed rear outbuildings are present (including upon the appeal site itself). When also factoring in the close by existence of back-land forms of development, including to the opposite side of School Lane, I find that a mixed residential character and appearance is observable local to the site.
6. To my mind, given the context described above, the proposal would suitably reflect the existing pattern and grain of development and would not be experienced as discordant with its surroundings. This is despite the necessary provision of associated on-site parking and turning areas. Indeed, the illustrative site layout offers assurances that two individual plots of a size and composition suitably respectful of their immediate surroundings would be achievable whilst retaining garden land for No 25.
7. Whilst full landscaping details are not before me, there would exist the opportunity to secure new planting to the site's rear and south-eastern side boundaries. This would be in the interests of supplementing adjacent trees and promoting a soft outward edge adjacent to the neighbouring parkland. On this basis, the setting of the Green Belt would be suitably respected.
8. It has been suggested by an interested party that the scheme could set a precedent for development to the rear of the row of frontage development in place to School Lane's north-western side. Previous unsuccessful applications for development have also been brought to my attention. However, for the avoidance of doubt, it is my responsibility to consider the specific proposal that is before me upon its own individual merits.
9. I note here that Eaton Bray is defined as a Large Village through the Central Bedfordshire Local Plan (July 2021) (the CBLP). As such, any policy stipulations relating to development limitations within the Settlement Envelopes of Small Villages do not apply.
10. For the above reasons, the proposal would not cause harm to the character and appearance of the area. The scheme satisfactorily accords with Policies SP7, HQ1 and HQ8 of the CBLP, the National Planning Policy Framework (July 2021) (the Framework) and the Central Bedfordshire Design Guide (September 2014) (the CBDG) in so far as these policies and guidance require proposals to take account of opportunities to enhance or reinforce the local distinctiveness of the area and create a sense of place.

Living conditions – noise

11. The external area to the side of No 25, where sited adjacent to School Lane, is comprised of hardstanding for the purposes of parking motor vehicles. This area of hardstanding is connected to a driveway that leads to the rear of the site. No 27 is stepped back a short distance from the site's side boundary, beyond a dwarf wall (topped by close boarded fencing) and a driveway that serves this neighbouring property.
12. The scheme involves the establishment of a shared access to the rear of the site that would run in proximity to the neighbouring grounds of No 27 and

alongside an area of private garden to be retained for No 25. Whilst parking for No 25 is provisionally intended to be relocated to the rear of the site, the number of trips realistically anticipated to occur via the shared access would be limited and infrequent across the course of any given day. Indeed, merely two additional units of housing are under consideration. When also noting that movements to and from the rear of the site would realistically be anticipated to take place at low speeds and across hard-bound surfaces, I find minimal potential for undue noise or disturbance to be caused.

13. Whilst not referenced in its reasons for refusing planning permission, the Council allege via its officer report and statement of case that the proposal would be experienced by the occupiers of Nos 27 and 29 as overbearing and/or visually intrusive. However, the scheme is at outline stage with the detailed matters of scale and layout (amongst others) yet to be considered. Indeed, the heights, footprints and positioning of the proposed dwellings have yet to be confirmed. Having inspected the site and considered the separation distances realistically achievable, I am satisfied that a detailed scheme could be formulated without leading to overbearing or visually intrusive relationships. Furthermore, whilst I accept that the proposal would be expected to influence outward views to the rear from neighbouring properties, this would not be a reason in itself to refuse planning permission.
14. For the above reasons, having particular regard to noise and outlook, the proposal would not cause harm to the living conditions of neighbouring occupiers. The scheme accords with Policy HQ1 of the CBLP, the Framework and the CBDG in so far as these policies and guidance set out that development proposals will be permitted where there is not an unacceptable adverse impact upon nearby existing or permitted uses, including via impacts on amenity or noise.

Highway safety

15. School Lane is subject to a 20mph speed restriction. Its alignment at and in proximity to the site is straight and, based on current site circumstances, good levels of visibility would apply in both directions when either entering or exiting the site.
16. The site's access is positioned such that the associated splay for vehicular visibility to its north-eastern side strays across neighbouring land not falling under the appellant's control. However, this neighbouring land serves as a driveway/access for No 27 and it has been brought to my attention that conditions related to this driveway/access (imposed when planning permission was granted in 2017) secure the absence of any obstructions to visibility exceeding 600mm in height. To my mind, notwithstanding the lack of direct control regarding ongoing compliance, these circumstances offer sufficient assurances that suitable levels of visibility would be maintained. I have seen nothing to indicate or convince me otherwise.
17. For the above reasons, having particular regard to vehicular visibility, the proposal would have an acceptable effect upon highway safety. The scheme accords with Policy T2 of the CBLP, the Framework and the CBDG in so far as these policies and guidance promote the provision of safe and convenient access. For the avoidance of doubt, I find Policy T3 of the CBLP to be of limited relevance to my consideration of this main issue. This is because it relates to car parking standards as opposed to highway safety matters explicitly.

The SAC

18. The site lies within a recently prescribed Zone of Influence where likely significant effects upon the SAC cannot be ruled out. The Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitat Regulations) require that, where a project is likely to have a significant effect on (a) European site(s) (either alone or in combination with other plans or projects), the competent authority must, before any grant of planning permission, make an appropriate assessment of the project's implications in view of the relevant conservation objectives. For the purposes of this appeal, I am the competent authority.
19. The SAC is comprised of an extensive area of ancient semi-natural beech forests interspersed with species-rich chalk grassland and scrub. Furthermore, standing and fallen timber provide important habitat for dead-wood invertebrates such as stag beetles. A threat to the SAC's integrity is increased visitor access and associated recreational pressures.
20. The proximity to the site of alternative recreational facilities has been highlighted by the appellant. However, as set out in Natural England correspondence dated 14 March 2022, the scale of the Zone of Influence has already factored in the draw of the site, the distribution of urban centres and the availability of other greenspace in the surrounding countryside. Furthermore, any potential suggestion that the influence of evolving pandemic-related movement restrictions should materially impact my findings has not been robustly substantiated.
21. The Habitats Regulations apply the precautionary principle as a matter of law. Whilst merely two additional dwellings are proposed, I consider that, taking a precautionary approach, additional recreational pressure upon the SAC would realistically be anticipated. A Strategic Solution to ensure that adequate mitigation is provided for new housing development is in the early stages of emergence but has yet to be adopted. As such, in the absence of an adopted (or interim) mitigation strategy, and based on the evidence submitted, it has not been demonstrated that the development proposal would avoid an adverse effect on the integrity of the SAC.
22. It has been suggested by the appellant that a planning condition could be imposed to secure that no development is carried out until suitable mitigation measures are put in place. However, planning permission, even in outline form, should only be granted where it has been demonstrated that the development would not adversely affect the integrity of the SAC. Thus, the agreement of a mitigation scheme cannot be delayed until a later date for the purposes of determining this appeal. Moreover, in the absence of appropriate mitigation, I am unable to allow this appeal. This is despite the benefits that would be associated with delivering two additional housing units at this site.

Other Matters

23. I have noted objections/concerns raised with respect to matters including the effect of the proposed development upon the living conditions of existing occupiers at No 25, potential loss of privacy or light for neighbouring occupiers, the intended parking/turning arrangements, the positioning of the bin collection point, the effect upon wildlife and the potential for disruption/pollution to be caused during the construction phase. However, as I have found the scheme

to be unacceptable for other reasons, it is not necessary for me to explore these matters any further here.

Conclusion

24. I have found that the proposal would not cause harm to the character and appearance of the area, nor to the living conditions of neighbouring occupiers having particular regard to noise and outlook. Furthermore, having particular regard to vehicular visibility, I have identified that highway safety would not be prejudiced.
25. However, as there is no agreed mitigation strategy in place at the current time to address the effects of recreational pressure, I cannot be satisfied that the proposal, in-combination with other development, would not adversely affect the integrity of the SAC. This is the overriding consideration in this case, which leads me to conclude that, in this instance, the scheme should not be determined in accordance with the development plan.
26. For the above reasons, the appeal is dismissed.

Andrew Smith

INSPECTOR