



Appeal Decision

Site visit made on 26 April 2022

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 May 2022

Appeal Ref: APP/A1910/W/21/3283492

Land Rear of 34 Great Road, Hemel Hempstead, Hertfordshire HP2 5LB

- 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 Seyed Karim Hashemi against the decision of Dacorum Borough Council.
 - The application Ref 21/01801/FUL, dated 28 April 2021, was refused by notice dated 29 June 2021.
 - The development proposed is a detached house.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Chilterns Beechwoods Special Area of Conservation (SAC) is protected as a European Site of Nature Conservation Importance. Subsequently to the submission of the appeal, Natural England wrote to the Council and others on 14 March 2022 highlighting significant recreational pressure on the Ashridge Commons and Wood part of the SAC. The appeal site is located within a 500m-12.6km Zone of Influence within which Natural England indicate that all applications resulting in a net increase in dwellings would require assessment detailing how adverse impacts on the integrity of the SAC would be avoided. The main parties were invited to comment on any implications for the appeal of this advice, and while neither have done so, I am therefore satisfied that no prejudice would occur as a result of me taking this matter into account within my decision.

Main Issues

3. The main issues are (i) the effect of the proposal on trees, and (ii) whether or not the proposal would optimise use of land, having regard to the requirements of the development plan and national planning policy.

Reasons

Trees

4. Dwellings on Great Road near to the appeal site are of mixed type, size and design, but individual buildings generally front the street on reasonably consistent building lines. Plots vary in overall size, but rear gardens near to the site are typically deep, and in a number of cases include well-established trees that are apparent from the street in views between buildings. As a result, there is an attractive spacious character to the area.

5. The appeal proposes a detached dwelling within part of the rear garden to 34 Great Road, very close to a group of 3 fairly large trees within the adjacent garden of 32 Great Road. These trees are not protected by Tree Preservation Order, but they are visible from the street in the gaps between dwellings as well as from surrounding properties, and complement other nearby trees to provide for an attractive landscaped backdrop and setting to development. The tree closest to the site boundary appeared at my visit to be in somewhat poor condition. However, I have no detailed assessment of its health or condition indicating that it is unlikely to survive, and I consider that the group make a positive contribution to the character and appearance of the area.
6. Given the height of these trees and the very close proximity of the dwelling, I am concerned that it would be at least partly within the root protection areas, and could therefore cause damage or harm to the health and longevity of the neighbouring trees. No tree survey, details of underground works or tree protection measures which Policy 99 of the Dacorum Borough Local Plan 2004 (DBLP) indicates would be required have been provided. Nor is there other detailed evidence before me considering the existing trees at No 32 and how they may be affected by the development. Accordingly, I find that the appellant's suggestion that trees would not be harmed by the development to be little more than unsubstantiated assertion.
7. The National Planning Policy Framework (the Framework) advises that consideration should be given to whether otherwise unacceptable development could be made acceptable through the use of conditions. The appellant suggests that details of underground works and tree protection measures could be submitted and that a planning condition could require an arboriculture report on how trees would be protected before work commences. However, without robust arboricultural evidence, I cannot be confident that development could be carried out in this location without adversely affecting tree roots, and there is little to demonstrate that potential harm to trees could be effectively mitigated. Given this uncertainty, and that it relates to the location of the dwelling which is fundamental to the development proposed, I am not satisfied that it would in this case be appropriate to defer consideration of this matter to a planning condition.
8. Accordingly, I am unable to conclude that the proposal would not harm the health or condition of the neighbouring trees causing detriment to the character and appearance of the area. I find that the proposal would conflict with saved Policy 99 of the DBLP which broadly seeks the retention and protection of trees and which includes requirements for measures to minimise unnecessary loss and damage to roots.

Use of Land

9. The proposal for an additional dwelling would make more efficient use of the appeal site than the existing situation. However, the density of development of around 27.5 dwellings per hectare would be slightly below the 30 dwellings per hectare generally sought by Policy 21 of the DBLP. Moreover, Policy 10 of the DBLP seeks to secure the optimum use of land. Amongst other things, it states that development must be planned and implemented in a co-ordinated way, taking a comprehensive view of potential development opportunities in the immediate area wherever possible. It further sets out that development should

provide for reasonable sharing of facilities such as parking, and that it should not prevent other land coming forward for development in the future.

10. The Council has drawn my attention to nearby developments at Farm Way, Ellen Close and Michael Close as examples of comprehensive developments that have optimised use of land to the rear of dwellings on Great Road. I have not been made aware of any current firm proposals for wider development in the immediate vicinity of the appeal site, but I have no firm evidence suggesting that the land would not have realistic potential to come forward.
11. The appellant has not disputed the Council's comments that the width of the proposed access driveway would be unsuitable to serve multiple dwellings. In addition, the layout of the development including parking to the front of the dwelling would restrict the potential for the access to be used to serve other land to the rear of neighbouring dwellings. Consequently, any future proposals for development to the rear of this part of Great Road that may come forward would be likely to require separate access. In my judgement, the proposal would therefore lead to an inefficient use of land when considered more widely, and irrespective of the relationship of the dwelling with existing development in the vicinity, I find as a result that the proposal fails to take a comprehensive view of potential development opportunities in the immediate area.
12. The appellant points to a single dwelling to the rear of 26 Great Road, but the Council indicates that this was approved prior to the adoption of the DBLP, and was not therefore considered in light of the requirements within Policy 10. Accordingly, I do not find that this development is a compelling reason to support a similar proposal on the appeal site. Moreover, the position of the dwelling to the rear of No 34 and lacking a street frontage would still be unusual in this area despite the development at No 26. Even if I were to agree with the appellant that the dwelling would be subservient to No 34 and that it would have adequate open spaces and setbacks and an appropriate scale, form and appearance; it would therefore stand out against the typical pattern of long gardens to development on this part of the street.
13. The proposal would make more efficient use of the appeal site when the site is considered in isolation. However, I find for the above reasons that the proposal would result in an unsympathetic development that fails to optimise the overall use of land in the long term. It would consequently conflict with saved DBLP Policy 10, and would be contrary to the Framework insofar as it sets out that applications which fail to make efficient use of land should be refused. It would also be contrary to advice within the Area Based Policies Supplementary Planning Guidance 2004 that tandem development is inefficient, problematic, and a generally unsatisfactory form of accommodating new housing.

Other Matters

14. The appellant has referred to examples of developments at 56 Shrublands Avenue and at the Wagon and Horses London Road in support of the appeal, but neither proposal concerned a separate dwelling in a tandem arrangement. In addition, these sites are located some distance away, and I have not been made aware that either resulted in a similar relationship to trees as would be the case on the appeal site. Accordingly, their circumstances are not directly comparable to the appeal proposal, and I do not find that these examples offer any meaningful support for the development before me.

15. I acknowledge that the proposal would deliver an additional dwelling towards local housing supply, and I note advice within the Framework that small and medium sized sites can make an important contribution to meeting the housing requirement of an area. However, the extent of the benefit would be very limited given the small scale of the proposal. Moreover, it would frustrate the efficient overall use of land to the rear of this part of Great Road to deliver a greater contribution to housing supply and a more effective overall use of land, limiting the weight that I afford to this factor. In my judgement, the modest benefits of the proposal would be insufficient to outweigh the adverse effect of the development on trees, and the conflict with Policies 10 and 99 of the DBLP.
16. The Chilterns Beechwoods SAC is subject to statutory protection under the Conservation of Habitats and Species Regulations 2017 which confer a duty on the competent authority to consider whether a proposed development may have a significant effect on the conservation objectives of such protected sites either alone, or in combination with other plans and projects. However, given the harm that I have identified above and that I am dismissing the appeal for other reasons, it is not necessary for me to consider further the effect of the proposal on the integrity of the SAC as it could not be determinative.

Conclusion

17. For the reasons given above, I find that the proposal would conflict with the development plan when it is read as a whole, and material considerations do not indicate that a decision contrary to the development plan should be reached. I therefore conclude that the appeal should be dismissed.

J Bowyer

INSPECTOR