



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: 07 July 2022

Appeal Ref: APP/A1910/W/21/3287701

16 St Anthony's Avenue, Hemel Hempstead, Hertfordshire HP3 8HQ

- 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 G Harris against the decision of Dacorum Borough Council.
 - The application Ref 21/02382/FUL, dated 8 June 2021, was refused by notice dated 4 August 2021.
 - The development proposed is construction of a new three bed dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Chilterns Beechwoods Special Area of Conservation ('SAC') is protected as a European Site of Nature Conservation Importance. It is therefore subject to statutory protection under the Conservation of Habitats and Species Regulations 2017 (as amended) ('the Regulations') which outline a duty to consider whether a proposed development may have a significant effect on the conservation objectives of such protected sites.
3. The Statutory Nature Conservation Body, Natural England, wrote to the Council and others on 14 March 2022 after the appeal had been submitted highlighting significant recreational pressure on the Ashridge Commons and Wood Site of Special Scientific Interest ('SSSI') part of the SAC. The letter advised that new residential development within an identified Zone of Influence would be expected to increase this pressure on the SAC. The main parties were invited to comment on any implications for the appeal arising from the advice given by Natural England, and I am therefore satisfied that no prejudice would occur as a result of me taking this matter into account within my decision in accordance with my duties under the Regulations.

Main Issues

4. The main issues are:
 - i) the effect of the proposal on the character and appearance of the area;
 - ii) the effect of the proposal on the integrity of the Chilterns Beechwoods SAC; and
 - iii) whether or not the proposal would make adequate provision for parking including with regard to the accessibility of the site.

Reasons

Character and Appearance

5. The appeal site includes a two-storey detached dwelling on the corner of St Anthony's Avenue and Crofts Path. While dwellings on Crofts Path are for the most part of similar designs and overall appearance, those on St Anthony's Avenue are of more varied form, scale and appearance, and include a mix of bungalows, some with accommodation at roof level served by dormers, and two-storey dwellings. However, both streets are characterised by detached dwellings that typically sit on fairly wide plots with generous spacing between buildings at first-floor level and above, and reasonably deep frontages that accommodate areas of parking and soft landscaping. As a result, there is an attractive spacious character to the area.
6. The appeal proposes a dwelling on part of the garden to the side of 16 St Anthony's Avenue. Separation between the side of the dwelling and Crofts Path would be much more limited than that provided to the front of 53 and 55 Crofts Path which are to the rear of the site. Nevertheless, the proximity to the street would be similar to that of the two-storey flank elevation of 17 St Michael's Avenue which sits beyond No 53. Its position would not therefore disrupt any strong building line along this part of Crofts Path, and I saw further examples nearby of dwellings on corners which have side elevations extending close to the adjacent street. In this context, I do not find that the proximity of the development to Crofts Path would in itself be discordant or unduly prominent in the street scene.
7. However, separation between the dwelling and the flank of No 16 would also be limited. Some buildings in the vicinity have single-storey elements extending up to the boundaries with their neighbours, but spacing between buildings is typically far more generous at first-floor level and above. While the gaps between buildings near to the site may not be uniform in width, I have not been directed to any examples of dwellings in similarly close proximity at first-floor level as would occur in the development before me, and the unusually close relationship of the dwelling to the side of No 16 would in my judgement stand out incongruously. I find that this relationship together with the very modest spacing that would be afforded between the development and the boundaries to both of its sides would cause the dwelling to appear cramped and awkward on the site.
8. Moreover, while I am satisfied that the chalet bungalow style of the dwelling and its contrasting scale to No 16 would not necessarily be inappropriate given the mixed styles and forms of other dwellings on St Anthony's Avenue, it would be one of the narrowest dwellings in the area. Against the modest width of the building, I find that the height and steep pitch of the roof would give significant vertical emphasis to the dwelling, and in my judgement would exacerbate the impression of it being squeezed onto the site.
9. Despite some screening by vegetation, it was apparent from my visit that the upper part of the dwelling and its relationship with its boundaries and No 16 would still be readily appreciable in views along Crofts Path as well as from St Anthony's Avenue. In these views, I find that the above factors in combination would cause the dwelling to appear cramped and out of keeping with the prevailing pattern of surrounding development, and that the proposal

would notably erode the existing spacious quality of its surroundings. This would be to the detriment of the character and appearance of the area.

10. I note that planning permission has been granted for a two-storey side extension to No 16. However, this would adjoin the existing dwelling. It would be seen in that context and in light of the overall spacing around No 16, and would not disrupt the prevailing pattern of detached dwellings on generally spacious plots. In contrast, the appeal proposal is for a detached dwelling. Whether or not this would be of similar overall scale to the permitted extension, its relationship with No 16 and with its plot boundaries would therefore be different, and the effect on the pattern of development in the area would not be directly comparable to the side extension.
11. I further note the appellant's suggestion that the rear gable to the permitted extension would be a prominent and alien addition. However, the permitted extension visual submitted by the appellant indicates that the gable would be of relatively modest depth, and that it would be set in from the boundary with Crofts Path which would help to reduce its visual impact. While the rear gable may be somewhat unusual, I am not persuaded from the evidence before me that it would be unduly conspicuous or visually intrusive in the street scene. I do not therefore consider that the chalet style of the proposed dwelling would offer a significant visual enhancement in comparison to the permitted side extension so as to offset or outweigh the adverse impact of the development on the spacious quality of the area.
12. Given these factors, I do not find that the permitted side extension is a compelling reason to allow development that I have found would detract from the character and appearance of the area.
13. My attention has also been drawn to examples of permissions that have been granted for new dwellings on corner plots. From the limited details presented, it appears that the developments at 38 Shrubhill Road and 2 Glenview Road proposed dwellings attached to existing terraced and semi-detached buildings in areas with relatively modest spacing between neighbouring buildings. The development at the corner of St Michael's Avenue and Tile Kiln Lane proposed a detached dwelling, but while St Michael's Avenue is more spacious, I saw terraced dwellings to the rear of that site and that that the closest part of Tile Kiln Lane includes a group of closely spaced detached dwellings. It therefore seems to me that none of the permissions highlighted resulted in a similarly stark degree of contrast in spaciousness in comparison to their surroundings as would be the case in the development before me.
14. For these reasons, I conclude that the proposal would cause harm to the character and appearance of the area. It would therefore conflict with Policies CS11 and CS12 of the Core Strategy 2013 ('CS') which require, amongst other things, that development enhances spaces between buildings and general character, respects the layout of adjoining properties, and integrates with the streetscape character.

Chilterns Beechwoods SAC

15. The duty under the Regulations to consider whether the proposed development may have a significant effect on the conservation objectives of the Chilterns Beechwoods SAC either alone, or in combination with other plans and projects,

within the framework of an Appropriate Assessment ('AA') would fall to me as the competent authority.

16. The designation of the Chilterns Beechwoods SAC reflects the presence of qualifying habitats (beech forests on neutral to rich soils, semi-natural dry grasslands and scrubland facies on calcareous substrates, dry grasslands and scrublands on chalk or limestone) as well as one qualifying species (Stag beetle). The stated conservation objectives of the SAC are to ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features by maintaining or restoring:
 - the extent and distribution of qualifying natural habitats and habitats of qualifying species;
 - the structure and function (including typical species) of qualifying natural habitats;
 - the structure and function of the habitats of qualifying species;
 - the supporting processes on which qualifying natural habitats and the habitats of qualifying species rely;
 - the populations of qualifying species; and
 - the distribution of qualifying species within the site.
17. From the information before me, the Ashridge Commons and Woods SSSI part of the SAC is vulnerable to pressure from people using the site for recreation. Any increase in recreational pressure is likely to result in further trampling, path expansion, more den building, reduced longevity of the beech trees, scarp bank erosion and the creation of new desire lines which could impact on the designated features of the site.
18. The proposed dwelling would be within the 500m-12.6km Zone of Influence within which Natural England advise new residential development would be expected to result in increased recreational pressure to the Ashridge Commons and Wood SSSI part of the Chilterns Beechwoods SAC and a likely significant effect. I cannot therefore be certain that there would not be increased recreational activity arising from the development, and Natural England advise that the development in combination with other plans and projects would be likely to lead to a deterioration of the quality of the habitat by reason of increased access to the site including for general recreation and dog-walking. While the increase in recreational pressure from the scheme alone may be small, I must adopt a precautionary approach in exercising my duty to protect the European Site. From the information before me, I cannot be sure that the proposal would not contribute to recreational pressure to a level that would have a likely significant effect on the SAC through harm to its qualifying features to the detriment of its conservation objectives.
19. In this context, I find that the development would be likely to result in adverse effects on the integrity of the SAC from recreational pressure. The appellant indicates that the Council is in the process of developing a strategy to mitigate effects of development on the SAC, and that they would be willing to agree a planning obligation that would secure a financial contribution once the strategy is finalised. However, there is currently no agreed approach to mitigate or avoid harm to the SAC through recreation impacts, and while I understand that the Council may be holding planning applications in a queue awaiting

finalisation of a strategy, it would not be reasonable to delay the appeal indefinitely until a mitigation strategy has been adopted.

20. In the absence of appropriate mitigation for recreation impacts arising from the development, I can only conclude that the proposal alone or in combination with other plans and projects would result in likely significant effects to the Chilterns Beechwoods SAC that would adversely affect its integrity. Accordingly, the proposal would conflict with the requirements of the Regulations, and it would be contrary to the objectives of the National Planning Policy Framework ('the Framework') for the protection of biodiversity and the conservation of the natural environment.

Parking

21. The Parking Standards Supplementary Planning Document ('SPD') 2020 indicates that the appeal site is in Accessibility Zone 3 where the SPD suggests that 2.25 parking spaces would be required to serve the proposed 3-bedroom dwelling. However, the SPD recognises that there may be a need for flexibility where changes to the identified standards are exceptionally substantiated by robust evidence.
22. There would be no off-street parking to serve the proposed dwelling, and I acknowledge advice within the SPD that the starting principle is that all parking demand for residential development should be accommodated on site, and that car-free residential development will not normally be acceptable outside Accessibility Zone 1. However, the guidance within the SPD is just that, and while it may provide an indication of harm, this is not an inevitable conclusion should a proposal not accord with its provisions.
23. At my visit I saw very limited parking taking place on streets surrounding the appeal site, and there were a substantial number of available on-street parking spaces. I appreciate that my visit was a snapshot and that the situation may be different in the evenings and overnight. Nevertheless, the appellant's evidence includes a Parking Stress Survey which also indicates a very low level of on-street parking overnight, and the Council has not disputed the results of the Survey nor the conclusion that there is sufficient capacity in the area around the site that could accommodate parking demand generated by the proposal.
24. I note representations referring to existing parking including of a commercial vehicle nearby, but there is no substantive evidence before me to indicate a high level of parking stress locally that would be harmfully exacerbated by the proposal to a level that would cause congestion, detriment to highway safety or other harm. While there may be instances of inconsiderate parking currently, these are matters for the relevant authorities and do not fall to be considered within the scope of this appeal. On this basis, I can see no firm reason to conclude in this case that parking demand arising from the development could not be acceptably accommodated outside of the site boundary.
25. In addition, the site is within reasonable walking distance of local shops and services at Leverstock Green and Bennetts End, and Hobbs Hill Wood and Saint Albert the Great Catholic Primary Schools. The site is also within walking distance of a number of bus stops offering connections to larger towns. The Council highlights that route 1 which serves bus stops closest to the site offers only 5 services a day with the last in the afternoon, but the appellant's evidence points to other stops accessible within a 10 minute walk that are

served by routes including H10, 20 and 302 offering alternative services. Notwithstanding the location of the site in Accessibility Zone 3, I am therefore satisfied that it would not be essential for future occupiers of the development to rely on private vehicles to meet day to day needs, and I find that there would be opportunities to travel by walking, cycling and public transport that would help to encourage a shift towards use of more sustainable transport modes.

26. Moreover, even if there were some reliance on private vehicles, the appeal site is not within a controlled parking zone. As a result and given my findings above that there would be adequate capacity to accommodate parking on streets near to the site, I can see no reason that future occupiers would in practice be prevented from using or owning a vehicle. Consequently, I do not find that the lack of on-site parking would be detrimental to the ability of future occupiers to reach services, and I find that the development would be suitably accessible.
27. In this context, I am satisfied that flexible application of the standards within the Parking SPD would in this particular case be justified, and I conclude having regard to the accessibility of the site that the proposed parking arrangements would be acceptable. The Council's reason for refusal does not allege conflict with any policies of the development plan. However, I find that the proposal would accord with objectives of Policy CS12 of the CS and saved Policy 51 of the Dacorum Borough Local Plan 2004 seeking satisfactory means of access for all users of development and to avoid significant impact on the nature, capacity and use of the highway network and its ability to accommodate traffic which are referred to within the Council's evidence.

Planning Balance

28. There is no dispute between the parties that the Council is currently unable to demonstrate a five year supply of housing. However, given the harm that I have identified to the Chilterns Beechwoods as a European Site of Nature Conservation Importance, policies within the Framework relating to habitats sites provide a clear reason for refusing the development. In such circumstances, footnote 7 to paragraph 11 of the Framework makes it clear that the presumption in favour of sustainable development would not apply.
29. That said, I recognise that the proposal would still make effective use of the site to deliver an additional dwelling within an existing built-up area with access to local services and public transport. The appellant refers to the development as making use of brownfield land, but the dwelling would occupy part of the existing garden to No 16, and the definition of previously developed land within the Framework excludes land in built-up residential areas such as residential gardens. Even so, the Framework seeks to significantly boost the supply of housing and recognises that small sites such as this can make an important contribution to meeting the housing needs of an area. The appellant indicates that the dwelling could be delivered quickly, and in light of clear objectives within the Framework and the identified shortfall in housing supply, this is an important benefit and I afford it great weight. Nevertheless, the very modest scale of the proposal would limit the contribution made to the overall supply of housing, and consequently the extent of the benefit.
30. Social and economic benefits associated with construction and occupation of the dwelling would also be limited by the small scale of the development, and I give them modest weight. The appellant's Planning Statement referred

additionally to incorporation of ecological enhancement measures within the development, but the weight that I can give to these is limited in the absence of firm details to demonstrate the scope of any benefit that would be delivered.

31. Conversely, the proposal would result in harm to the character and appearance of the area and to the integrity of a European Site of Nature Conservation Importance. In combination, I find that the harm that would arise in these regards would significantly outweigh the modest benefits of the proposal.

Conclusion

32. Notwithstanding my findings that parking provision would be adequate, I conclude 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. The proposal would also harm the integrity of the Chilterns Beechwoods SAC which is a matter of overriding concern. I therefore conclude that the appeal should be dismissed.

J Bowyer

INSPECTOR