



Appeal Decision

Site visit made on 21 September 2022

by Hannah Guest BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 NOVEMBER 2022

Appeal Ref: APP/X0415/W/22/3293513

6 Elizabeth Cottage, Grimsdells Lane, Amersham HP6 6HE

- 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 Andy and Gillian McNaughton against the decision of Buckinghamshire Council.
 - The application Ref PL/21/2507/FA, dated 21 June 2021, was refused by notice dated 13 January 2022.
 - The development proposed is described as 'demolition of existing dwelling and outbuildings. Erection of two dwellings. New dropped kerb. Raised terraces to rear patios.'
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Decision

1. The appeal is dismissed.

Procedural Matters

2. During the course of the appeal, Natural England issued new advice regarding significant recreational pressure upon Chiltern Beechwoods Special Area of Conservation and that there could be implications for new housing within the 12.6km zone of influence. The 12.6km zone of influence includes land within Buckinghamshire Council and the site subject to this appeal. The main parties were given an opportunity to comment on any potential implications and the matter has been treated as a main issue under the appeal.

Main Issues

3. The main issues are the effect of the proposal on the:
 - character and appearance of the area;
 - living conditions of the occupants of No. 8 Grimsdells Lane, with particular regard to outlook and light; and
 - integrity of the Chiltern Beechwoods Special Area of Conservation.

Reasons

Character and Appearance

4. The appeal site is located at the western end of Grimsdells Lane, not far from shops and services on Sycamore Road. This part of Grimsdells Lane, especially the north side, has a very verdant character due to the properties having mature landscaped front boundary treatments, consisting of hedges and trees.

5. I understand that the Council's Townscape Character Assessment (2017) identifies the appeal site as forming part of a Green Suburban Road. These roads are characterised by predominately large, detached dwellings with plots typically being regular in width and pattern. Houses are set behind medium to large front gardens with simple building forms. The landscape character is green and leafy with mature landscape and hedgerows. I saw this to be a fair appraisal of the area's character, although the size, shape, and width of the plots along Grimsdells Lane can vary, as can the height and form of the properties. There are also differences in the style of the houses and their materials. Most of the front gardens are used for parking.
6. The appeal site is located on the north side of Grimsdells Lane and has substantial hedging, planting and trees along its front boundary meaning that views of the existing house from the lane are very limited. It is one of the wider plots along this section of Grimsdells Lane.
7. The proposed dwellings would be a similar scale to neighbouring 2-storey properties. Although they would provide accommodation in the roof space at a third level, this would be achieved using only roof lights. Also, while they would be taller than their immediate neighbours, their height would be comparable to other houses along this section of Grimsdells Lane. I appreciate that Policy GC1 of the Chiltern Local Plan (1997) (the Local Plan) states the height of new structures should generally conform with the height of adjoining buildings and structures. However, given there are variations in height along Grimsdells Lane, and the neighbouring properties are two of the shortest, the difference in height between the proposed dwellings and the neighbouring properties would not be out of character.
8. In addition, despite the resulting plots of the proposed dwellings being narrower than others along Grimsdells Lane, the distance between the proposed dwellings and their neighbours would be consistent with other properties, as would their set back from the pavement. Therefore, they would not be overly prominent or intrusive in the street scene.
9. Furthermore, the proposal would retain many of the trees along the front boundary, which in my view are highly likely to remain in a similar form for aesthetics, privacy, and consistency with local character. It would also provide a new hedge. This would screen the development to a large degree from the street scene. It would also be in keeping with the pattern of development and would conserve the verdant character of Grimsdells Lane.
10. Accordingly, for the reasons above, the proposal would not harm the character and appearance of the area. It would therefore accord with policies GC1 and H3 of the Local Plan, Policy CS20 of the Core Strategy for Chiltern District (2011) (the Core Strategy) and the aims of chapter 12 of the National Planning Policy Framework (the Framework). These seek to deliver development of a high standard that reflects and respects the character of the surrounding area.

Living conditions

11. I saw that in addition to the hedge between the appeal property and No. 8 Grimsdells Lane there are some very tall trees with, at the time of my visit, relatively dense foliage. While the trees are a prominent feature, despite their substantial height and massing, they did not feel dominant or overbearing, nor did they appear to affect the spaciousness of the rear garden of No. 8.

12. As part of the proposal some of these trees would be removed. I acknowledge that the flank elevation of the proposed dwelling would be closer to the boundary than the existing dwelling, deeper and taller. It would also be relatively blank with a single window at first floor level. However, the height of the proposed dwelling to its ridge would be shorter than the existing trees. The eaves height of the flank elevation would be significantly shorter than the existing trees and the roof profile would slope away from the boundary, which would further moderate the proposed dwellings bulk. Given this, the effect of the proposal would likely be similar or less than the existing boundary treatment, thus not overbearing. I acknowledge that there would be quite a stark change in the appearance of the boundary at this point. However, the existing trees along the remainder of the boundary would be retained and, even if they were eventually removed, the rear gardens currently contain many other trees and plants. Therefore, while the proposal would change the overall outlook for the occupants of No. 8, it would not harm it.
13. The proposals effect in terms of light would also be comparable to the existing boundary treatment. I appreciate that the trees are deciduous and, therefore, allow light through during the winter months, which the proposed dwelling would not. However, the Overshadowing Assessment shows there would be a negligible impact on the amount of overshadowing experienced by the rear garden of No. 8. It may be that the assessment demonstrates not insignificant amounts of overshadowing during the summer, particularly the evenings. However, this would be the case with the current boundary treatment, which in the absence of a permission is unlikely to be removed.
14. Accordingly, for the reasons above, the proposal would not harm the living conditions of the occupants of No. 8 Grimsdells Lane. It would accord with policies GC2 and GC3 of the Local Plan and the aims of chapter 12 of the Framework, which seek to protect the amenities enjoyed by the occupants of neighbouring properties including sufficient sunlight and daylight.

Chiltern Beechwoods Special Area of Conservation

15. The above considerations point me towards allowing the appeal. However, my attention has been drawn to potential adverse effects resulting from the proposal on the Chiltern Beechwoods Special Area of Conservation (SAC).
16. The site is within the 12.6km zone of influence of the Ashridge Commons and Woods Site of Special Scientific Interest (SSSI), which forms part of the SAC. The SAC supports a range of habitats which qualify under Annex 1 of the European Habitats Directive. These include beech forest woodland habitats that also make up a large amount of the SSSI.
17. Research carried out by Footprint Ecology to inform Dacorum Borough Council's emerging Local Plan found that new housing within the zone of influence, such as the proposal, can be expected to result in an increase in recreational pressure on the SAC. Given this, the advice from Natural England¹ is that likely significant effects on the SAC, particularly when combined with other development within the zone of influence, cannot be ruled out in the absence of mitigation. It is therefore necessary for me, as competent authority under the Conservation of Habitats and Species Regulations 2017 (Habitats Regulations),

¹ in their capacity as the statutory nature conservation body under the Conservation of Habitats and Species Regulations 2017.

to conduct an Appropriate Assessment in relation to the likely significant effects of the proposal on the integrity of the SAC.

18. Impacts upon the designated features of the SAC as a result of increased recreational pressure, include further trampling and vegetation wear, soil compaction and erosion, contamination including nutrient enrichment (e.g. dog fouling), litter and invasive species, and increased risk of fire. I understand that the evidence underpinning these likely significant effects identifies potential mitigation solutions to overcome them, including Strategic Access Management and Monitoring (SAMM) and Suitable Alternative Natural Green Space (SANG). Natural England is working alongside the Council to prepare a mitigation strategy to identify and implement these mitigation measures in perpetuity. In their document titled Chiltern Beechwoods Special Area of Conservation Frequently Asked Questions dated September 2022 (FAQs), the Council estimate that a SAMM Strategy will be agreed by the end of 2022, and solutions for offsite SANG will be identified by early 2023.
19. As competent authority, I need to be certain that the proposal would not cause adverse effects on the integrity of the SAC. Natural England has advised that further information is required to determine the significance of the proposal's impacts and the scope for mitigation. From the evidence before me, although it appears that mitigation will be possible, given the terms of that mitigation have not yet been fully agreed, I cannot rule out adverse effects on the integrity of the SAC. I acknowledge that the effect of one additional residential unit would be limited, however my assessment must include the in-combination effects of the proposal with other planned development within the zone of influence.
20. It has been put to me by the appellant that the adverse effects could be addressed by a condition requiring a scheme of mitigation, which has been submitted to and approved in writing by the Council, to be implemented prior to first occupation of one of the units. However, government guidance on conditions states that the best way to deliver sufficient certainty is by ensuring that any planning obligation or other agreement is entered into prior to granting planning permission. This is particularly fundamental in providing the certainty required by the Habitats Regulations.
21. Furthermore, while I note the example of payment arrangements set out in the email from Chelmsford City Council, it is stated in the Council's FAQs that any financial contribution would be secured through a S106 bilateral or unilateral undertaking. Understandably, given the terms of the mitigation strategy has not yet been fully agreed, there is no S106 bilateral or unilateral undertaking before me. There is, therefore, no certainty that the required mitigation, whether or not this is solely a monetary payment, would be delivered.
22. For the reasons above, there is insufficient evidence to provide the certainty needed to rule out adverse effects on the integrity of the SAC and I must take a precautionary approach. Consequently, the proposal would conflict with the aims of chapter 15 of the Framework and the Habitats Regulations.

Other Matters

23. In terms of benefits, I acknowledge that the proposal would provide one net additional dwelling, which would contribute towards the borough's housing supply. However, while this weighs in favour of the scheme, the contribution would be limited.

Conclusion

24. Overall, I have found there would be no harm to the character or appearance of the area, or the living conditions of the occupants of No. 8 Grimsdells Lane, and the proposal would conform with the development plan. However, the Habitats Regulations confirm that I cannot approve the proposal where likely significant adverse effects cannot be ruled out. Even accounting for the benefits, this material consideration is decisive and therefore the appeal should be dismissed.

Hannah Guest

INSPECTOR