



Appeal Decision

Site visit made on 3 November 2022

by Jonathon Parsons MSc BSc(Hons) DipTP Cert(Urb) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 December 2022

Appeal Ref: APP/A1910/W/21/3289930

Land to the rear of 9 Chambersbury Lane, Hemel Hempstead HP3 8AY

- 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 & Mrs M Adams against the decision of Dacorum Borough Council.
 - The application Ref 21/03489/FUL, dated 9 July 2021, was refused by notice dated 2 December 2021.
 - The development proposed is a detached bungalow.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application form detailed that the proposal was a re-submission. This reference does not describe the development and has been omitted from the above description in the banner heading. Nevertheless, this point will be taken into account in the decision.
3. The site lies within the Zone of Influence of the Chilterns Beechwoods Special Area of Conservation (SAC), designated by Natural England. Both main parties' views were sought on this during the consideration of this appeal and their responses taken into account in this decision.

Main Issues

4. The main issues are the effects of the proposal on (a) the living conditions of the future occupiers of the new bungalow, having regard to the privacy of the amenity space and front bedrooms, (b) the integrity of the Chilterns Beechwoods Area of Conservation and (c) the safety of pedestrians, cyclists and drivers using Mill Close, having regard to parking and access arrangements.

Reasons

Living conditions

5. The application site comprises parts of the former rear gardens of 9 and 11 Chambersbury Lane and lies adjacent to an access road serving the neighbouring Mill Close development. In the vicinity of the appeal site, there is downward drop in ground levels from Chambersbury Lane to Mill Close. There is a hedge and vegetation alongside the boundary marking the subdivision of the retained gardens of Nos 9 and 11 and the development site.

6. The proposed private amenity space would be to the side of the new bungalow and directly behind No 9. Established planting to the common boundary with No 9 would be allowed to grow to an increased height, measuring approximately 2.9m height. There would be fencing along this boundary as well. However, the first floor windows of No 9 would be elevated above the garden and there is no guarantee that the vegetation would remain in perpetuity. There can be any number of reasons that vegetation disappears, for instance, disease, storm or accidental damage. As such, there would be significant overlooking of the garden of the dwelling.
7. Various other developments have been drawn to my attention in the vicinity, but none show a relationship of first floor windows to amenity space as before me in this appeal. In any case, every proposal has to be considered on its particular planning merits. The proposal is a resubmission of an earlier scheme dismissed at appeal but, for reasons indicated, the appeal proposal would fail to ensure acceptable standards of living conditions for future residents.
8. The bungalow would also have bedrooms with windows facing onto car parking areas and beyond this, the road serving Mill Close. There is pedestrian footfall associated with this neighbouring housing development but the majority of this would be on the footway on the other side of this road. There is no footway on the appeal site side of Mill Close. Vehicles use travel along the road but they would mostly just be passing and consequently, there would be no sustained direct overlooking from drivers and passengers.
9. Notwithstanding this, the proposal would result in a significant loss of privacy for the future occupiers of the dwellings, having regard to the amenity space, and would fail to secure high standards of residential amenity. Accordingly, the proposal conflicts with Policy CS12 of the Core Strategy (CS) 2006-2033 (2013).

Chilterns Beechwoods Special Area of Conservation

10. The SAC was designated due to its internationally important interest features, its beech forest and grassland habitats. The SAC has been identified as being in unfavourable conservation status and National Site Network objectives require maintaining or where appropriate the restoration of species and habitats.
11. The SAC is an attractive and accessible site of regional significance for recreation. With increasing residential development within the surrounding district/unitary authorities, the SAC will experience further pressure from people using this habitat site for recreation. Public access and disturbance results in adverse impacts upon the designated features of the site. Consequently, the development would have a significant effect on the internationally important interest features of the site, alone or in combination with other plans and projects.
12. A strategic strategy has yet to be developed with mitigation, such as Strategic Access Management and Monitoring (SAMM), Sites of Alternative Natural Green Space (SANGS) and a gateway facility into the Chilterns. No mitigation has been put forward by the appellants. On this basis, there would not be compliance with conditions, or other restrictions, such as a planning obligation, that enable it to be ascertained that the proposal would not adversely affect the integrity of the SAC. There are no alternative solutions that would have a

lesser effect, or avoid an adverse effect, on the integrity. Priority habitats would be adversely affected and there are no imperative reasons of overriding public interest. For all these reasons, the recreation of future residents would adversely affect the integrity of the SAC alone or in combination with other projects coming forward. Nature areas benefit mental wellbeing of people but to permit damage through over visitation would continue to diminish the nature resource and the benefits of this.

Highway safety

13. Two off-street car parking spaces would be positioned in tandem and parallel to the road at Mill Close. The Highway Authority advised that insufficient detail has been provided in relation to these arrangements and as such, vehicular access would be unacceptable on highway safety grounds. However, the development would be within a residential estate, where traffic speeds would be low. Within this environment, visibility impaired by parked vehicles and any neighbouring retaining walls would encourage safe access entry/exit. For all these reasons, the development should not be refused on unacceptable impact on highway safety. Accordingly, the proposal accords with Policies CS8 and CS12 of the CS (in respect of highway safety) and paragraph 111 of the National Planning Policy Framework.

Planning Balance

14. The proposal would boost housing supply but development would not safeguard the living condition of the future residents of the new dwelling. Even if the Council has a deficient 5 year housing land supply, the contribution and value of one dwelling would be very small. The harm to the living conditions of future residents of the bungalow would be permanent and great, and the conflict with Policy CS12 of the CS would be overriding. There would be conflict with the development plan taken as a whole. There would be harm to the integrity of a SAC which would provide a sound reason for refusing the development, and there are no material considerations to outweigh these findings.

Conclusion

15. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Jonathon Parsons

INSPECTOR