



Appeal Decision

Site visit made on 3 August 2022

by A. Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 January 2023

Appeal Ref: APP/X0415/W/21/3283384

High Mead, Chesham Road, Bellingdon HP5 2XU

- 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 Pearson against the decision of Buckinghamshire Council.
 - The application Ref PL/21/2428/FA, dated 5 July 2021, was refused by notice dated 27 August 2021.
 - The development proposed is described on the application form as the 'construction of a detached dwelling on infill plot between High Mead and Wavell'.
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Decision

1. The appeal is dismissed.

Procedural Matters

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

Main Issues

3. The main issues are:
 - whether the proposed development would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - the effect of the proposed development on the Chilterns Area of Outstanding Natural Beauty (AONB); and
 - the effect of the proposed development on the integrity of the Chilterns Beechwoods SAC.

Reasons

Whether Inappropriate Development

4. The appeal site comprises a parcel of land positioned between the established residential properties of High Mead and Wavell. The properties, and their

neighbours, form part of a linear development along Chesham Road. The site is in the Green Belt.

5. National Green Belt policy in the Framework sets out that the construction of new buildings in the Green Belt should be regarded as inappropriate development. There are, however, certain exceptions. One of those, at paragraph 149, is limited infilling in villages.
6. Policy GB2 of the Chiltern District Local Plan (LP, adopted 1997¹) pre-dates the Framework. It conforms to the general thrust of the Framework's Green Belt policy insofar as it seeks to prevent inappropriate development. However, Policy GB2, and linked Policies GB4 and GB5, refer to specific locations for new residential development. As such, those policies are more prescriptive and are therefore not compliant with current national Green Belt policy. Accordingly, I attribute only moderate weight to these policies in respect of their degree of consistency with the Framework.
7. The terms 'limited' and 'infilling' are not defined within the Framework. This is ultimately a question of fact and planning judgement for the decision maker, having regard to the nature and size of development, the location of the appeal site and its relationship to existing adjoining development.
8. The proposed development would consist of a single dwelling which would be positioned within a gap between adjacent individual properties. It would be positioned within an existing row of dwellings along an otherwise fully developed frontage. It would be of a reasonably modest scale, which would assimilate with the siting, scale and appearance of neighbouring properties. From that perspective, the proposed development could be reasonably regarded as 'limited infilling' in a village.
9. I note the Council's comments in respect of the alleged precedent that would be set and the importance of the gaps and spaces between properties here. In respect of forming a precedent, I am not aware of any directly comparable sites to which this proposal might apply were it put forward. In any event, each proposal must be determined on its own individual merits and circumstances. As I set out below, the gap here is not significant in respect of character and appearance.
10. Consequently, I find that the proposed development satisfies an exception under Paragraph 149 of the Framework and is not inappropriate development in the Green Belt.

AONB

11. The appeal site is located within the Chilterns AONB. AONBs are designated for the purposes of conserving and enhancing natural beauty. Section 85(1) of the Countryside and Rights of Way Act 2000 (as amended) places a duty upon me to have regard to these purposes in this decision. Supporting this objective, Framework paragraph 176 sets out how great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs.
12. One of the key characteristics set out within the Bellingdon Dipslope with Dry Valleys Landscape Character Area, within which the site lies, is that of its low-density settlements linearly dispersed along roads, comprising small hamlets

¹ Including alterations adopted 29 May 2001, consolidated September 2007 and November 2011.

and individual farmsteads. Sensitivities are set out as including the need to ensure that new development is sensitively integrated into the landscape through careful siting, along with the retention of the small-scale character of settlements and interrupted row settlements.

13. The area surrounding the site has a largely rural character, comprising agricultural land with some woodland and equestrian uses amongst it. Farmsteads, occasional buildings and clusters of properties exist in the landscape. Although the appeal site contributes to the rural character of the surrounding area in that it is undeveloped, it has not been demonstrated that it makes a contribution to the landscape character and wider significance of the AONB.
14. The gap between High Mead and Wavell, forming the appeal site, is described by the Council as forming part of a transitional zone. However, this gap is not one which contributes in any significant way to wider AONB characteristics. Instead, it forms a slightly larger gap between buildings towards the end of the built-up row. Moreover, there is no substantive evidence before me setting out the importance of the 'petering out' or transition of more developed areas into the countryside.
15. Although the proposed development would be visible by users of Chesham Road, the design and scale of the proposed dwelling would integrate sensitively into the existing built form and accommodated comfortably within the plot. It would not erode or harmfully consolidate the 'interrupted row settlement' of Bellingdon, which is characterised by linear clusters of properties with expansive and clear breaks between rows. From further afield, views of the site would be limited and viewed in the context of other built form.
16. My attention is drawn to an appeal decision at Rodwells, Lee Common, where the spacing between buildings is referenced in respect of the AONB. However, the context of this site is different to the appeal site, particularly in respect of it being in a different settlement, and I do not find the two sites to be directly comparable. I have considered the proposed development based on the plans before me and my site observations.
17. In conclusion, the position of the proposed development, set near to existing development and of a design that is not out of keeping with the surrounding area, would have a neutral impact on the landscape setting of the AONB. Consequently, the proposal would accord with the relevant provisions of LP Policy LSQ1 and Policy CS22 of the Core Strategy for the Chiltern District (2011). These policies, in summary, seek to ensure that the open countryside and AONB are protected from inappropriate development.

Chilterns Beechwoods SAC

18. The appeal site lies within the 12.6km zone of influence of the Chilterns Beechwoods SAC. This site was designated due to the importance of its habitats.
19. All public bodies have a duty to take reasonable steps to further the conservation and enhancement of this designated area. Natural England advises that there is the potential for significant impacts on the SAC as a result of any net increase in residential development within the zone of influence. This

is due to pressures on the site by reason of its attractiveness as a location for recreation.

20. The Conservation of Habitats and Species Regulations 2017 (the Regulations) require competent authorities, before granting consent for a plan or project, to carry out an appropriate assessment (AA) in circumstances where the plan or project is likely to have a significant effect on a European site, alone or in combination with other plans or projects.
21. Adequate mitigation measures to avoid additional recreational impacts from net increases in development would be needed, in order for the AA to be able to conclude that there would be no adverse effects on the integrity of the SAC. I have insufficient evidence before me to demonstrate that the impacts of the proposed development could be avoided or mitigated so that the integrity of the SAC would be preserved. The Council is preparing a mitigation strategy. However, this work is not yet complete.
22. I acknowledge the appellant's request that the decision is not determined until such a time as the Council's mitigation strategy is in place, or that a condition is added to the decision if allowed requiring a scheme of mitigation to be submitted and approved prior to commencement. I also acknowledge the difficult timing of the emerging advice from Natural England. However, the *Procedural Guide – planning appeals – England* advises that cases will not normally be put into abeyance unless there are exceptional reasons to do so. Such exceptional circumstances have not been demonstrated in this instance. Moreover, as I cannot be confident that the proposed development could avoid or mitigate any impacts to the integrity of the SAC, a condition could not reasonably be attached to deliver the necessary mitigation.
23. Consequently, I conclude that there is insufficient evidence before me to demonstrate that the proposed development would not lead to adverse effects on the integrity of the Chilterns Beechwoods SAC. The proposed development is therefore contrary to the relevant provisions of Paragraph 180 of the Framework, which seeks to prevent significant harm to biodiversity from development, and the Habitats Regulations. There are no relevant development plan policies before me with which the development conflicts in this regard. Nonetheless, material considerations indicate a decision otherwise than in accordance with the development plan here. The Regulations do not allow me, as a competent authority, to agree to the proposed development, an approach supported by the Framework. This consideration therefore carries great weight in my determination of the appeal.

Other Matters

24. The submitted evidence indicates that the Council cannot demonstrate a five-year housing land supply. This stands at 4.18 years. As such, and noting the Government's objective of significantly boosting the supply of homes, the provisions of Framework paragraph 11.d fall to be considered.
25. In accordance with paragraph 180 of the Framework, my inability to conclude that adverse effects on the integrity of the Chilterns Beechwoods SAC, as an area of particular importance, can be avoided provides a clear reason for refusing the development proposed. As such, the proposed development would not benefit from the presumption in favour of sustainable development in this instance.

Conclusion

26. I have had regard to the development plan as a whole, and to relevant material considerations before me, including in respect of Habitats Regulations.
27. The Regulations dictate that a competent authority cannot agree to a proposed development unless they are satisfied that adverse effects would not arise. The material considerations in this regard are of such importance that they dictate a decision otherwise than in accordance with the development plan.
28. On this basis, I conclude that the appeal should be dismissed.

A. Price

INSPECTOR