



Appeal Decision

Site visit made on 28 February 2023

by S Pearce BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 April 2023

Appeal Ref: APP/J0405/W/22/3307046

34 Cottesloe Road, Aylesbury, Buckinghamshire HP21 8DN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant full planning permission.
 - The appeal is made by Mr E Humphries against the decision of Buckinghamshire Council.
 - The application Ref 22/00564/APP, dated 14 February 2022, was refused by notice dated 11 April 2022.
 - The development proposed is described as "demolition of pair of cottages. Redevelopment of site with two pairs of semi-detached dwellings with associated external works and vehicle access points to the highway."
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Vale of Aylesbury Local Plan 2021 (LP) was adopted in September 2021. I have taken it into account in coming to my decision.
3. The appellant contends the site can be defined as previously developed land. Annex 2 of the Framework excludes land in built-up areas such as residential gardens from the definition of brownfield land. The site comprises a pair of residential properties, located within the confines of a built-up area. Consequently, the site of the houses would be previously developed land, but their gardens are not.
4. I note that the site address refers to no. 34 Cottesloe Road only. However, the description of the development includes the demolition of a pair of cottages and the submitted plans include no. 36 Cottesloe Road within the site boundary. With my decision, I have therefore had regard to both no. 34 and 36 Cottesloe Road as forming part of the site.

Main Issues

5. The main issues are:
 - The effect of the proposed development on the character and appearance of the area;
 - The effect of the proposed development on trees;
 - The effect of the proposed development on the living conditions of existing occupiers at nos. 55, 57 and 59 Birch Court, with regard to privacy,

- The effect of the proposed development on the living conditions of future occupiers, with regard to garden sizes; and
- The effect of the proposed development on the biodiversity of the area.

Reasons

Character and appearance

6. The site is located within Southcourt, a large residential estate. The Southcourt Policy Technical Advice Note 2005 (TAN) describes the area as having a distinctive and spacious character. There is a distinct rhythm to the properties within the vicinity of the site, particularly along Cottesloe Road. The majority of properties are two storey and semi-detached, with shallow pitched roofs and very few dormer windows. Properties are sited in relatively deep plots, set back from the highway, behind low walls or hedges. It is the rhythm, layout, uniformity of design and open frontages that contribute to the character of the area.
7. The site comprises a pair of two storey, semi-detached properties, nos. 34 and 36 Cottesloe Road, sited at right angles to the highway, with deep gardens to their rear. Due to the existing layout, the depth of the site when viewed from Cottesloe Road is shallow. The existing vegetation within the site helps to soften the boundary adjoining the highway. The current layout, whilst at odds with the prevailing character of the wider estate, contributes to the character of the area, by virtue of its density, garden depth and associated vegetation which helps soften the site frontage.
8. The proposed development comprises a pair of two storey semi-detached properties, with accommodation in the roof space. The properties are orientated with their frontages facing the highway. Due to the shallow depth of the site, the properties would be sited significantly closer to the highway than surrounding development, with minimal front gardens and shallow rear gardens. To allow for the accommodation within the roof space, the properties have steep roof pitches, with dormer windows located to the front of each property that contrast with the shallow pitches of surrounding houses.
9. For these reasons, the layout, design and height of the development would result in a dominant and cramped form of development. This would be at odds with the prevailing character of the area, thereby affecting the character and appearance of the area.
10. The appellant contends that the development mimics the style of properties in the locality. It is accepted that the orientation of the properties, with their frontages facing the highway, broadly reflects the layout of surrounding properties. However, this element alone is not sufficient to overcome the harm I have identified to the character and appearance of the area.
11. For the reasons above, I conclude that the development of two pairs of semi-detached dwellings, with associated works, results in harm to the character and appearance of the area, contrary to Policy BE2 of the LP, the TAN and the National Planning Policy Framework (the Framework). These policies seek, amongst other things, to ensure development respects and complements its surroundings and development and achieves good design.

Trees

12. There are a number of trees within the site. By virtue of their height, location and the shallow plot depth, they are visible from Cottesloe Road. There is also a hedgerow and other vegetation along the site frontage and side boundary. When viewed alongside other frontage planting within the surrounding area, the trees and hedgerow collectively soften the built development. They therefore contribute towards the visual amenity of the area.
13. Limited information has been submitted with respect to trees and hedgerows, although the submitted Biodiversity Measures Project 2119. – February 2022 document (BMP) indicates there would be a loss of a fruit tree and overgrown shrubs. The BMP also references landscaping proposals. The Council have suggested the planting of native trees, including a replacement fruit tree, and shrubs could be included within any soft landscaping scheme.
14. Taking account of the layout of the development and suggested soft landscaping scheme, I consider that suitably worded conditions could be used to ensure that there is no adverse impact upon trees or hedgerows as a result of the development. Such conditions could secure the submission of a tree survey, a landscaping scheme to mitigate against any loss of trees and hedgerow and tree protection measures to ensure any retained trees are protected during construction works. As such, subject to these suggested conditions, the proposed development would not have a harmful impact on trees or hedgerows.
15. For the reasons above, I conclude that the development of two pairs of semi-detached dwellings, with associated works would not result in an adverse impact upon trees. The proposal therefore accords with Policy NE8 of the LP and the Framework, which collectively seek, amongst other things, to ensure where the loss of trees is considered acceptable, adequate replacement provision can be provided and recognise that trees can make an important contribution to the character and quality of urban environments.

Living conditions existing occupiers

16. Nos. 55, 57 and 59 Birch Court are two storey, semi-detached properties. Their rear elevations, including private rear gardens, face directly towards the site. The rear boundaries of these properties directly adjoin the side boundary of no. 36 Cottesloe Road. Due to the layout and orientation of nos. 34 and 36 Cottesloe Road, there is no direct overlooking of nos. 55, 57 or 59 or their private rear gardens at present. The occupiers of nos. 55, 57 and 59 therefore benefit from a degree of privacy as a result of the existing layout.
17. The proposed development would introduce four, two storey properties, with accommodation in the roof space, to the site. These properties would be orientated with their rear elevations directly facing the rear elevations of no. 55, 57 and 59, with private rear gardens in between. The depth of the site is such that it would result in modest garden depths for each of the proposed properties. This arrangement would introduce direct views, within close proximity of the rear gardens and rear windows serving no. 55, 57 and 59, from the first floor windows of the proposed properties. This would result in a

material increase in overlooking of these properties from the proposed development.

18. The appellant suggests that a distance of 22m between properties is required by the Council's design guidance. The development would adhere to that distance. I note that there are no garden depth standards or separation distances stipulated within the policies or design guidance notes submitted as part of this appeal. Notwithstanding this, I do not consider that the adherence to the distance suggested by the appellant, particularly as there is a lack of intervening features between the site and the neighbouring properties, overcomes the harm I have identified to the living conditions of the existing occupiers at no. 55, 57 and 59 Birch Court.
19. The appellant has stated there would be no detrimental impact to the neighbours on each side of the development or opposite side of the road. Having regards to the orientation, siting and proximity of the proposed development in relation to these properties, I do not consider that there would be a material impact upon the living conditions of the occupiers of these properties as a result of the proposal.
20. The Council have raised concerns in relation to overlooking from the proposed rooflights. The roof space accommodation would also be served by dormer windows, located on the front elevations of the properties. Having regards to the proposed layout, overlooking from the rooflights could be mitigated against through the imposition of a condition requiring the rooflights to be sited more than 1.7m above the floor of the room in which they are installed. Suitable boundary treatment could be secured by condition, to ensure that there is no overlooking from the rear ground floor windows.
21. For the reasons above, I conclude that the development of two pairs of semi-detached dwellings, with associated works results in harm to the living conditions of the existing occupiers at nos. 55, 57 and 59 Birch Court, through loss of privacy. This is contrary to Policy BE3 of the LP and the Framework, which collectively seek, amongst other things, to ensure development would not unreasonably harm any aspect of the amenity of existing residents and provide a high standard of amenity for existing users.

Living conditions future occupiers

22. The submitted plans show private rear gardens, at varying depths, for each of the proposed four, three bedroomed properties. Due to the orientation of the proposed development and site depth, the length of each of the proposed rear gardens is modest.
23. The Council state that as general rule, they would expect to see a garden length of at least 10m, in order to ensure adequate outdoor amenity space. However, I consider that the width, amount and usable shape of the proposed gardens would allow future occupiers to accommodate domestic items, without appearing overly cramped. The proposed development would therefore result in rear gardens that, whilst modest, would provide sufficient and usable space to serve the size of the properties proposed.
24. For the reasons above, I conclude that development of two pairs of semi-detached dwellings, with associated works does not result in harm to the living conditions of the future occupiers, with regard to garden sizes. The proposal

therefore accords with Policy BE3 of the LP and the Framework, which collectively seek, amongst other things, to ensure development achieves a satisfactory level of amenity for future residents and users.

Biodiversity

25. The submitted (BMP) includes limited information with regards to biodiversity. It does highlight that there would be a loss of a fruit tree, overgrown shrubs and planting as a result of the development. The BMP states there is opportunity to improve biodiversity enhancement and references landscaping proposals and the installation of bird boxes.
26. The Council contend that the proposed development should demonstrate a minimum 10% net gain in biodiversity. Policy NE1 of the LP, requires, amongst other things, a net gain in biodiversity but it does not contain a specific level of biodiversity net gain to be achieved.
27. The Council have highlighted that biodiversity enhancement features, including for bats, birds, bees and hedgehogs could be dealt with by a condition. The Council have also suggested the planting of native trees, including a replacement fruit tree, and shrubs could be included within any soft landscaping condition.
28. Taking into account the size of the site and development proposed, together with the mitigation measures already recommended, there is a reasonable likelihood in this case that even relatively small measures could achieve a proportionate level of biodiversity net gain. The precise details of any enhancement measures could be dealt with by an appropriately worded condition.
29. For the above reasons, I conclude that the development of two pairs of semi-detached dwellings, with associated works, would not have any material impact upon biodiversity. Therefore, the proposal complies with Policy NE1 of the LP and the Framework, which, amongst other things, seek to ensure net gains in biodiversity.

Other Matters

30. The proposal provides a net gain of two dwellings, which will provide a modest contribution toward housing needs in the area. The appellant states that the site is in a sustainable location, close to local amenities and future occupiers would not be reliant on the motorcar. However, having regard to the modest amount of development proposed, these benefits carry limited weight which do not overcome the harm I have identified.
31. The appellant states that due to their construction, the existing cottages are not very energy efficient. I understand that improvements may be possible but would be costly and the cottages may remain poorly insulated. In addition, the appellant has highlighted that the gardens serving the cottages are not well kept. I have had regard to these matters, but they do not carry sufficient weight to overcome the harm I have identified above.

Conclusion

32. For the above reasons, having considered all the policies drawn to my attention, the conflict with Policies BE2 and BE3 of the LP leads me to conclude

that there is conflict with the development plan as a whole. There are no material considerations that indicate I should conclude other than in accordance with the development plan. Consequently, I conclude that the appeal should be dismissed.

S Pearce

INSPECTOR