



Appeal Decision

Site visit made on 16 March 2023

by Robert Fallon B.Sc. (Hons) PGDipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 May 2023

Appeal Ref: APP/K0425/W/22/3305172

Land at rear of Erneville and Glendower, Downley Road, Naphill, Buckinghamshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Vince Millen (Millen Homes Ltd) against the decision of Buckinghamshire Council.
 - The application Ref 22/05592/OUT dated 4 March 2022, was refused by notice dated 24 June 2022
 - The development proposed is described on the application form as "Development of 1 serviced self build plot".
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Decision

1. The appeal is dismissed.

Procedural matters

2. Different versions of the site address are entered on the planning application form, appeal form and decision notice. I have used the address on the decision notice as I consider this to be the most accurate.
3. The appeal seeks outline planning permission, with approval sought for all reserved matters other than landscaping and appearance. I have accordingly treated the submitted front elevation drawing as indicative only.
4. The appellant submitted a preliminary ecological appraisal¹ at the appeal stage in response to the third reason for refusal ('the ecological appraisal'). The Council was consulted in respect of this and responded accordingly. The appellant was consulted in respect of this response and provided an updated ecological appraisal². Further consultation then took place in respect of this with both the Council and appellant.

Main issues

5. The main issues are the effect of the development on:
 - the character and appearance of the area;
 - highway and pedestrian safety, with specific regard to whether the scheme makes adequate provision for visibility at the site access;
 - protected species and biodiversity.

¹ Preliminary Ecological Appraisal Report, project no 22_PEA_BNG_08_59, Version no 1.0, dated 15/10/22.

² Preliminary Ecological Appraisal Report, project no 22_PEA_BNG_08_59, Version no 2.0, dated 22/03/23.

Reasons

Appeal site context

6. The appeal site is broadly rectangular in shape (not including the private access road) and primarily consists of overgrown grass and shrubland with a range of mature trees of limited size, some of which are protected by a Tree Preservation Order³.
7. Downley Road is primarily characterised by detached and semi-detached dwellings of varying architectural styles, maturity and scale that front onto the highway in a linear formation with moderately spacious gaps between properties. The highway has no footways and many front gardens are enclosed by mature hedging, which gives the area a semi-rural verdant character.
8. The appeal site falls within the Naphill Walters Ash Settlement Boundary and Chilterns Area of Outstanding Natural Beauty (AONB).

The effect of the development on the character and appearance of the area

9. The proposed dwelling would be positioned directly behind Erneville and Glendower, a pair of semi-detached dwellings converted into flats, and utilise the same access road. It would therefore constitute a tandem form of development on a backland site, which would not be in keeping with the prevailing single-file linear character of the area described above.
10. The appellant states that the scheme would be screened by existing housing on Downley Road and that it would not therefore impact on the wider Chilterns AONB landscape. However, be that as it may, screening ought never to be regarded as a substitute for development that is sympathetic to the character of an area, particularly when it is well-defined, as is the case here.
11. The appellant states that the scheme should also be viewed in the context of a recent permission to erect 3 dwellings to the rear of the detached properties known as Hillberry, Chelwood and Aisling⁴. However, this development is not comparable in that it does not share the same access road with the frontage properties and because it replaced an existing dwelling. Furthermore, neither this scheme, the commercial building behind Charity Cottage, or other examples referred to materially changed the character of the area to the extent that the appeal scheme would be contextually acceptable.
12. Concerns have also been raised in respect of the scheme's single storey height shown on the indicative front elevation plan. However, I am satisfied that this would not look out of place given the variety of architectural styles that exist in the area.
13. In view of the above, I conclude that the layout of the development would be harmful to character of the area. The proposal would therefore conflict with Policies DM30 and DM35 of the Local Plan⁵, which collectively seek, amongst other things, to ensure that development; - (a) respects the character of the area; and (b) respects the built heritage of the Chilterns AONB and enhances the sense of place and local character.

³ Tree Preservation Order No 01/2022 dated 2 February 2022.

⁴ Planning Permission 18/06647/FUL.

⁵ Wycombe District Local Plan, Adopted August 2019, Wycombe District Council.

14. I also find that the scheme conflicts with the Council's Housing Intensification guidance⁶, which states that tandem development is not acceptable due to, amongst other things, it not being comprehensive in concept.
15. The scheme would additionally conflict with Paragraph 130 of the Framework⁷, which seeks, amongst other things: (a) development that is sympathetic to local character; and (b) schemes that maintain a strong sense of place.
16. Despite the Council's reason for refusal referring to Policy DM36 of the Local Plan, this is not relevant as it relates to extensions and alterations to existing dwellings.

The effect of the development on highway and pedestrian safety, with specific regard to whether the scheme makes adequate provision for visibility at the site access

17. Downley Road provides access to a large number of dwellings on both it and Vincents Way (both roads are cul-de-sacs). As a consequence, the northern end of Downley Road (where the appeal site is located) and its junction with Main Road is subject to significant use throughout the day. In view of the area's close proximity to a park and the village hall, I would expect there to be a high degree of local residents walking and cycling to these facilities, along with other amenities within the village.
18. At my site inspection, I observed that on both sides of the private access road entrance there were several cars parked on the highway causing significant restrictions in visibility when exiting the site. Representations from neighbours indicate that this often occurs, and it is a practice I would expect to continue given; (a) that Erneville and Glendower have been converted into flats with limited off-road parking for occupants & visitors; (b) its convenient position for customers visiting the commercial retail unit at the junction with Main Road; and (c) the absence of on-road parking restrictions.
19. In view of the above on-road parking obstruction and the presence of neighbouring fences on third party land, I found there to be very poor visibility in both directions when exiting the site, which would be harmful to highway and pedestrian safety.
20. This harm would be significantly intensified by the absence of footways, particularly to the south, as pedestrians would have to walk on the outside of parked vehicles, which would obscure them from drivers exiting the private access road. The level of danger would be particularly acute for children, parents with pushchairs, cyclists and people with disabilities, such as those with a guide dog/white mobility cane or in wheelchairs/mobility scooters.
21. Furthermore, given that the visibility splay to the south falls on land outside the appellant's control, there would remain the potential for this danger to intensify even further.
22. I recognise that the scheme proposes the removal of hedging on the northern side of the private access road, which would improve visibility for vehicles exiting the site, and that the Local Highway Authority considers this to be

⁶ Housing Intensification Supplementary Planning Document, adopted 21 December 2005, as amended by the Housing Intensification Supplementary Planning Document 2011 Update, adopted October 2011, Wycombe District Council.

⁷ National Planning Policy Framework, Ministry of Housing, Communities and Local Government, 20 July 2021.

acceptable. However, this does not in itself demonstrate a lack of harm and does not alter my view that an intensification of this access would be dangerous for the reasons identified.

23. The appellant has referred to a previous appeal decision at the site where the Inspector concluded that there is reasonable visibility to the south along Downley Road (whilst simultaneously noting that this was over land within the adjacent front gardens of Erneville and Glendower)⁸. However, a significant period of time has elapsed since this decision was made and the local context may have changed in terms of on-road parking and boundary treatments. I have as a consequence assessed the proposal on its own merits in the light of my observations on-site and all the evidence which is now before me.
24. In reaching this conclusion, I also recognise that the access already exists and that there is no evidence before me of accidents relating to this. However, even if there was only a limited increase in highway and pedestrian danger, I would not consider this to be acceptable given the potential consequences for pedestrians and cyclists.
25. In view of the above, I conclude that the development would result in highway and pedestrian danger arising from insufficient visibility when exiting the site access road by car. The proposal would therefore conflict with Policy DM33 of the Local Plan, which seeks to ensure, amongst other things, the provision of safe access to the local highway network.
26. I also find that the scheme conflicts with Paragraphs 110 and 112 of the Framework which collectively seek, amongst other things, to ensure: (a) safe and suitable access to sites; and (b) the creation of safe places. This decision also accords with Paragraph 111 which states that development should only be refused if there would be an unacceptable impact on highway safety.

Protected species and biodiversity

27. The Council has raised a number of concerns relating to the appellant's ecological appraisal (both the original and updated version), which include, amongst others; (a) the level of professional competency/skills/training/experience of the ecologist and/or the lead consultant; (b) whether the survey conducted was sufficiently thorough given the site being covered in brambles at the time of inspection; (c) whether the habitat had been correctly identified; (d) the reason why the report dismissed a range of protected species being present at the site, despite them being known in the locality; (e) the failure to demonstrate and conclude that the development would not have a significant ecological impact; and (f) the absence of any reference to a biodiversity net gain metric and baseline figure. In light of this, the Council asserts that it would not be appropriate to impose a condition requiring further details to address these matters and has referred to an appeal decision in support of this position⁹.
28. In response to the above concerns, the lead consultant attempted to access the appeal site on 21 April 2023 to establish whether the reporting and opinions of the ecologist were robust. However, they state that they were confronted by unknown persons and prevented from accessing the site¹⁰. As a consequence,

⁸ APP/K0425/A/12/2173802, decision dated 18/09/12.

⁹ APP/K0425/W/22/3305095, decision dated 06/01/23.

¹⁰ Email dated 22/04/23 from Matt Harmsworth, Director, Chief pilot, Lead Consultant, Roavr Group.

the lead consultant was not able to report back on this matter following a site inspection.

29. Despite the lead consultant not being able to review the ecological appraisal following a site inspection, the appellant asserts that the matter of biodiversity could be dealt with by planning condition and has referred to an appeal decision in support of this¹¹. However, that appeal differs from the one before me in that the Council agreed that the additional information provided by the appellant had demonstrated that the biodiversity effects of the proposal would be acceptable subject to suitable conditions. In any event, in the absence of the information referred to above from the lead consultant, there is insufficient evidence before me to demonstrate that the ecological appraisal was robust and that a condition could achieve the desired outcome.
30. In light of the above, and having reviewed all the evidence before me from both the Council and appellant, I have concluded that there is insufficient information before me to be able to determine that; (a) there would be no harm to protected species; and (b) that sufficient biodiversity enhancement could be achieved. However, given that I am dismissing the appeal for other reasons, it has not been necessary for me to request further information and clarification from the appellant as even if all of the Council's concerns on this matter been addressed, it would not have altered the outcome. In addition, it would have put the appellant to additional unnecessary expense.
31. I therefore confirm that I am unable to conclude that the scheme would accord with Policy DM34 of the Local Plan and Policies DM13 and DM14 of the Delivery & Site Allocations Plan¹², which seek, amongst other things, to; (a) give the highest level of protection to species and sites of international and national importance; and (b) maximise, enhance and protect biodiversity.

Planning balance

32. The Local Plan was adopted within the last 5 years and I am satisfied that the most important policies referred to are broadly consistent with the Framework and that the proposal conflicts with the development plan when taken as a whole.
33. I recognise that the scheme would result in benefits from;- (a) an additional self-build dwelling in a location where there is a recognised shortage of such plots; (b) an efficient use of under-utilised land as supported by Paragraph 120 of the Framework; (c) future occupiers contributing to the vitality and viability of shops, services, facilities, businesses and community organisations in the surrounding area; (d) a potential net gain in biodiversity; (e) the creation of an energy efficient dwelling supported by renewable energy and constructed using sustainable construction methods; (f) an improvement to the existing visibility splay looking north; and (g) local employment during construction.
34. However, whilst I have given significant weight to the provision of an additional self-build plot and consider the overall benefits of the scheme to be of moderate value when taken cumulatively, it is my view that the adverse

¹¹ APP/W0530/W/22/3290243, decision dated 07/11/22.

¹² Adopted Delivery and Site Allocations Plan for Town Centres and Managing Development, July 2013, Wycombe District Council.

impacts of the scheme would outweigh these when assessed against the policies in the development plan and other material considerations.

35. In view of the above, I conclude that the proposal does not accord with the development plan and that other material considerations do not indicate that the proposal should be determined other than in accordance with this.

Conclusion

36. All representations have been taken into account, but no matters, including the benefits of the development and the scope of possible planning conditions, have been found to outweigh the identified harm and policy conflict. For the reasons above, the appeal should be dismissed.

Robert Fallon

INSPECTOR