



Appeal Decision

Site visit made on 8 March 2023

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 June 2023

Appeal Ref: APP/A1910/W/22/3298981

1 Park Road, Hemel Hempstead HP1 1JT

- 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 Wood against the decision of Dacorum Borough Council.
 - The application Ref 20/03557/FUL, dated 17 November 2020, was refused by notice dated 17 November 2021.
 - The development proposed was originally described as 'demolition of existing dwelling and erection of building containing 2 x 1 bedroom flats and 6 x 2 bedroom flats with associated landscaping'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposed development was amended during the planning application process to '1 x 1 bedroom flat and 6 x 2 bedroom flats'. I have based my assessment on this amended proposal.
3. The evidence before me indicates that the site is situated within the zone of influence (ZoI) for the Chiltern Beechwoods Special Area of Conservation (SAC). The Conservation of Species and Habitats Regulations 2017 (the Habitats Regulations) require the Competent Authority to consider whether or not the proposal could adversely affect the integrity of the protected site, either alone or in combination with other plans and projects. This responsibility falls to me in the context of this appeal. I have therefore considered this matter under the first main issue.
4. The Council's decision notice specifically states that the proposal fails to provide sufficient on-site car parking provision. The Council suggests the single reason for refusal on its decision notice reflected the planning committee's concerns that the proposal would be an overdevelopment of the site. I have considered the density of the development including the absence of parking in general character and appearance terms under the second main issue. However, it is clear from the Council's statement of case that there are concerns that the proposal would be contrary to the Council's Car Parking Standards Supplementary Planning Document (2020) (SPD). The appellant has also set out their own position in this respect. Therefore, I have considered parking provision under the third main issue.
5. The proposed development has been screened in accordance with the Environmental Impact Assessment (EIA) Regulations 2017. It has been

concluded that the development would not be of a scale and nature likely to result in a significant environmental impact and EIA is therefore not required.

Main Issue

6. The main issues are:

- (i) the effect of the proposal on the Chiltern Beechwoods SAC;
- (ii) the effect of the proposal on the character and appearance of the area; and
- (iii) whether or not the development would be acceptable in terms of parking provision.

Reasons

Chiltern Beechwoods SAC

- 7. The designation of the Chiltern Beechwoods SAC reflects the presence of two qualifying habitats (Beech forests on neutral to rich soils and Semi-natural dry grasslands and scrubland facies on calcareous substrates; dry grasslands and scrublands on chalk or limestone) as well as one qualifying species (Stag Beetle). The conservation objectives identified for the SAC include maintaining or restoring the extent, distribution, structure and function of the qualifying habitats and the habitats of qualifying species; the supporting processes on which these rely; and the population and distribution of the qualifying species.
- 8. The integrity of the SAC and its qualifying features are at risk of impacts from housing growth within the ZoI resulting in increased recreational pressure and disturbance within the SAC. Natural England (NE) has previously confirmed to the Council that it is Ashridge Commons and Woods SSSI unit within the SAC which would receive the greatest recreational pressure. The proposal would result in a net increase of six dwellings on the appeal site and this has the potential to result in an increase in visitors to the SAC.
- 9. During the course of this appeal, the Council has confirmed that it has now agreed a mitigation strategy with NE allowing a moratorium on new development to be partially lifted. The Chiltern Beechwoods Special Area of Conservation – Mitigation Strategy for Ashridge Commons and Woods Site of Special Scientific Interest (November 2022) (the mitigation strategy) confirms that NE has advised that the cumulative effects of housing growth will have a likely significant effect on the integrity of the SAC and mitigation measures are necessary to ensure adverse effects on integrity can be ruled out.
- 10. Having regard to the above advice and the specific scale and location of the development before me, I consider that the net increase of six dwellings would be likely to have a significant effect on the internationally important features of the SAC, both on its own or in combination with other projects, arising from increased recreational pressure.
- 11. The Council has confirmed that the mitigation strategy allows qualifying developments, such as in this case, to pay financial contributions towards improvements set out in the mitigation strategy. These contributions are required to provide Strategic Access Management and Monitoring (SAMM) and Suitable Alternative Natural Greenspace (SANG). The relevant sum for SAMM set out in the mitigation strategy is £913.88 per net dwelling for SAMM, which

equates to a figure of £5483.28 for the proposal. The Council has also confirmed that a contribution of £4,251.71 per net dwelling would be required for SANG and this would equate to a figure of £25,510.26 for the proposal.

12. The Council has confirmed that the SANG solutions currently available are Council led schemes and are finite in terms of the number of dwellings that they can support. The appellant has seen this information and has confirmed that they are fully aware of the mitigation strategy, the costs involved and the requirement for a legal agreement securing this payment to be agreed. Yet, I am not aware that the appellant has entered into discussions to establish with the Council whether there is sufficient SANG capacity available and if not whether a bespoke SANG solution is necessary or can be made in this instance.
13. Notwithstanding the above, the Council's mitigation strategy makes clear that financial contributions towards SAMMS and SANG will be secured through either a Unilateral Undertaking or a Section 106 Agreement. A completed legal agreement with the necessary SAMM contribution and any agreed SANG contribution following such discussions with the Council has not been provided. The Grampian condition suggested by the appellant would not give sufficient certainty that any required payments would be agreed and therefore that an appropriate level of mitigation to protect the integrity of the SAC would be secured and delivered.
14. Therefore, I cannot be certain that an appropriate level of mitigation is available in this instance to protect the integrity of the SAC, and even if it is, I am not in a position to secure it.
15. It would be typically necessary for me to consult NE as part of an Appropriate Assessment and to assess the effectiveness of any mitigation for the identified recreational impacts. Had I not identified harm under the third main issue I may also have pursued the matter further with the main parties. However, as it stands, I cannot reach a definitive conclusion on the level of mitigation available in terms of SANGS. Furthermore, in the absence of a legal mechanism before me to secure mitigation measures, I can only conclude that the proposed development, alone and in combination with other plans and projects, would likely have a significant adverse effect on the integrity of the SAC.
16. Accordingly, the development would conflict with the requirements of the Habitats Regulations as well as the conservation and restoration objectives for priority habitats and species of Policy CS26 of the Dacorum Borough Council Core Strategy (2013) (CS) and paragraphs 179 and 180 of the National Planning Policy Framework (the Framework).

Character and appearance

17. The appeal site relates to a corner plot at the junction of Park Road and Charles Street. It is currently occupied by a split-level detached dwelling. The wider street scene is predominantly characterised by two-storey dwellings in a variety of designs. However, the dwellings in the area mainly incorporate traditional architecture. Several properties in the area have accommodation in the roof space and there are some examples of dormer windows in front facing roof slopes. The dwellings in the area are more often set back from their front boundaries. Front gardens in the area vary in size but many of those on Charles Street and some of those on the same side of Park Road as the appeal site are shallow in depth. The general consistency in scale combined with the

range in design and size of gardens makes for a varied but coherent residential character.

18. The L-shaped layout would help to address the site's corner position. The front elevations would closely align with the front elevations of the neighbouring dwellings at No 9 Park Road and No 15 Charles Street. The height of the building would generally reflect the maximum heights of buildings on these respective streets and would successfully negotiate the change in levels to respond to the stepped roof line along Charles Street. The hipped roofs would help to minimise the bulk of the building and on Park Road the height of the building would reduce towards the boundary with the bungalow at No 9. The modestly scaled dormers would sit comfortably within the roof slopes. The street facing elevations would include variation in the building line and on Park Road would incorporate a series of bay windows. Together with the mix of brick and render facing materials, these design features would help to break up the expanse of built form.
19. The plans also indicate that there would be opportunities for planting within the Park Road and Charles Street frontages, and this would help to soften the appearance of the development in the street scene. In this regard, I do not find that the absence of a larger garden or the provision of parking area would be harmful to the street scene. To the rear, a landscaped amenity area of comparable size to some of the neighbouring rear gardens would be provided between the building and the boundary with No 15 Charles Street. Consequently, the developments scale, layout and traditional aesthetic would suitably respond to the local vernacular.
20. The Council has raised concerns that the footprint of the building would occupy 46% of the site area. Saved Appendix 3 of the Dacorum Local Plan 1991-2011 states that residential development designed for multiple occupancy will be required to provide a communal amenity area to the rear of the building at least equal to the footprint of the building for two storey developments, and increasing with building height. However, there are a range of garden sizes in the area and there is nothing before me to suggest that the proposal would conflict with any specified measurements within an adopted policy. Therefore, even if the rear amenity space would not be wholly consistent with Saved Appendix 3, I am satisfied that the balance of amenity space and built form would be acceptable in this instance as the development would sit comfortably within the context of its immediate surroundings.
21. I conclude that the development would have an acceptable effect on the character and appearance of the area. In that regard it would comply with the design and character requirements of Policy CS12 (Quality of Site Design) and paragraph 130 of the Framework.

Parking provision

22. On my site visit, I saw that the site is located within a Controlled Parking Zone (CPZ) with on-street parking in the vicinity of the site reserved for permit-holders only, Monday – Sunday between 8am and 10pm. While only a snapshot of the parking situation in the area, the parking spaces were well used at the time of my visit. Parking immediately opposite the site on Park Road is prohibited by double yellow lines. The appellant has confirmed that parking controls extend to well beyond 200 metres from the site.

23. The proposal would provide no off-street parking facilities and the appellant suggests that it would be a car-free development. The Council's Car Parking Standards Supplementary Planning Document (2020) (SPD) makes it clear that car-free residential development may be considered in high accessibility locations and that the level of parking may be omitted or reduced on the basis of the type of development provided. Furthermore, the SPD states that there may be exceptional circumstances, when robust justification can be provided to vary from the parking standards. It also confirms that car-free residential development will not normally be acceptable outside 'Accessibility Zone 1'.
24. The site is located in the 'Zone 3 - Lower Accessibility' area identified in the SPD. In the circumstances car-free development would not usually be supported by the SPD. Based on the parking requirements for Zone 3 in the SPD, the appellant has calculated that the proposed development would usually require 7.2 parking spaces for unallocated parking provision and 11 parking spaces for allocated parking provision and this has not been disputed by the Council.
25. Notwithstanding the above, the evidence indicates that the site is also only circa 50 metres from 'Zone 1 – Highest Accessibility' as identified in the SPD. In this regard, I have seen the evidence provided by the appellant including the distances between the site and the nearest services and facilities. This indicates that there are a wide variety of services and facilities in comfortable walking or cycling distance from the site, including those within Hemel Hempstead town centre. In these respects, I find that the footpath network and public transport options in the area offer good sustainable transport options. Therefore, this may present a situation where there could be a variation from the usually required parking standards if this was robustly justified.
26. However, the proposal specifically proposes to omit parking not just reduce provision. A range of travel options doesn't on its own guarantee that future occupiers of the development would not own a private vehicle and that the development would be truly car-free. Indeed, the appellant contends that circa 50% of residents of flats in the local area do not own a car. Conversely, this indicates that 50% of such residents do own a vehicle. Therefore, I cannot rule out that some occupiers of the development would want to own a private vehicle and would require parking space. There is no legal mechanism before me to prevent future occupiers from owning a private vehicle or from applying for a permit to park close to the site. In the latter instance, the Council's evidence suggests its members also raised such concerns and this has not been addressed by the appellant.
27. The appellant suggests that a voucher for a year's membership to a car hire club would be provided to the first resident of each flat. It is clear from the Council's statement of case that members of the planning committee were concerned over the long-term use of a car club and how this could be secured in perpetuity. Again, there is no mechanism before me to ensure that such vouchers would be provided. Even if there was, based on the appellant's suggestion, this would only provide an alternative to private vehicle ownership for a short period and would not address the absence of parking provision to serve the development in the longer term.
28. I have also seen the concerns of third-parties in respect of the limited availability of on-street parking in the area. There is no detailed evidence

before me to suggest there is capacity within the CPZ to accommodate the parking requirements that could be generated by the development. In the absence of a suitable legal mechanism to secure the development as car-free, there is therefore the potential that the proposal would unacceptably impact upon parking-stress levels in the area causing inconvenience for local residents.

29. I conclude, it has not been robustly justified that parking provision is not required in this instance particularly in the absence of a suitable mechanism to secure the proposal as a car-free development. In that regard it would conflict with the requirements to provide sufficient, safe and convenient parking based on car parking standards in Policies CS8 (Sustainable Transport) and CS12 (Quality of Site Design) of the CS and the SPD. It would also conflict with the requirements in the Framework to promote sustainable transport and for parking considerations to be integral to the design of schemes.

Other Matters

30. The Framework seeks amongst other things to avoid significant harm to biodiversity. The Office of the Deputy Prime Minister Circular 06/2005 (Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System) states that the presence of a protected species is a material consideration when a development proposal is being considered which would be likely to result in harm to the species or its habitat. It goes on to say that it "... is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision".
31. The appellant's Preliminary Ecological Assessment and Bat Survey (PEA) identified that the roof space of the existing building on the site may have been used as a bat roost. The PEA recommends a set of emergence surveys to classify the roost to classify the roost, determine if other species of roosting bat are present and support a licence application to allow the demolition of the building within the current legal framework. Without the further activity surveys, I cannot be certain of the extent to which protected species would be likely to be affected by the proposed development nor the extent to which mitigation may be required. The Council's suggested condition would conflict with the above guidance to establish these matters before planning permission is granted. In any case, as I am dismissing the appeal for other reasons, it has not been necessary to consider this matter in any further detail.

Conclusion

32. The appellant contends that the Council cannot demonstrate a 5-year housing land supply. While I have no comments from the Council in respect of this matter, I have applied a worst-case scenario for the purposes of my decision. Therefore, in the absence of a suitable supply of deliverable housing sites, paragraph 11d of the Framework is engaged.
33. I have found that the proposal would have an acceptable relationship with the character and appearance of the area. The proposal would make a modest but valuable contribution to the housing numbers and mix in the area. There is the potential for some limited social and economic benefits associated with the

development of the site and the contributions that occupiers of the development would make to local services and facilities in the area. These are positive benefits to weigh in the balance.

34. However, it has not been robustly justified that parking provision is not required, particularly in the absence of a legal agreement to secure a car-free development. This conflicts with the sustainable transport and parking requirements of the development plan and national policy. This is a matter which weighs heavily against the development.
35. Moreover, in the absence of detailed evidence to demonstrate that the integrity of the Chiltern Beechwoods SAC would be protected, the proposal would conflict with the Habitats Regulations and the policies of the Framework. This provides a clear reason for refusing the development.
36. In the circumstances, the adverse impacts of the development would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole.
37. I therefore conclude that this appeal should be dismissed.

M Russell

INSPECTOR