



Appeal Decision

Site visit made on 9 May 2023

by H Wilkinson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 July 2023

Appeal Ref: APP/A1910/W/22/3304081

Land adjacent to 8 Haywood Drive, Hemel Hempstead, Hertfordshire, HP3 0SA

- 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 Jagir Alam against the decision of Dacorum Borough Council.
 - The application Ref 21/02155/FUL, dated 24 May 2021, was refused by notice dated 4 February 2022.
 - The development proposed is the change of use of land to residential and construction of a two storey dwelling raised on stilts. External decks, walkways, bike and bin store, hard standing area for three car parking space and new access from Haywood Drive.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The address of the appeal site has been omitted from the planning application form. I have therefore taken the address from the appeal form which is also consistent with the Council's decision notice.
3. The Chilterns Beechwoods Special Area of Conservation Mitigation Strategy (MS) was approved by the Council in November 2022. This document sets out targeted measures to safeguard the integrity of the designated site by mitigating the effects of new development located within the Zone of Influence.
4. The appeal application was determined by the Council in February 2022, prior to the adoption of the MS. The effect of the proposed development on the integrity of the designated site was therefore not considered in the officer's report, nor does it feature as a reason for refusal. Nevertheless, in accordance with the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations), I have a duty to consider the effect of the proposal on the designated site. I have therefore defined the main issues accordingly.

Main Issues

5. The main issues in this appeal are:
 - the effect of the proposal on the character and appearance of the area;
 - the effect of the proposal on the Chilterns Beechwoods Special Area of Conservation (SAC).

Reasons

Character and appearance

6. The appeal site occupies a prominent corner location, on the edge of Haywood Drive and comprises a vacant plot of land which is covered by dense woodland. Although there is no predominant architectural style in the area, the site's immediate surroundings are characterised by detached dwellings of a similar scale and appearance which typically occupy well proportioned, maturely landscaped plots. These characteristics provide for a relatively cohesive, verdant and spacious setting which positively contributes to the character and appearance of the area.
7. The appeal development relates to the erection of a two-storey, timber clad dwelling, the design of which I am told has been led by the ecological value of the site. Whilst I recognise that the incorporation of a green roof and timber cladding would reflect the verdant character of the appeal site, the introduction of a flat roof would nevertheless be uncharacteristic of the area. Moreover, the roof structure together with the elongated footprint, would create a block like form and appearance which would read as a bulky and disproportionate addition to the street scene, particularly when viewed from the nearby road junction, where the existing tree coverage is most sparse. Therefore, whilst it has been put to me that the proposal would be a discrete piece of architecture, for the above reasons, I find that the proposal would be visually obtrusive.
8. I acknowledge that the existing landscaping within the appeal site would provide a reasonable level of screening throughout the year. However, there would be periods during the winter when the tree canopies are reduced during which time, the incongruous form of the proposal would be more apparent. Furthermore, it is noted that many of the existing trees as identified within the Arboricultural Impact Assessment were graded as being of low quality with some having less than 10 years value remaining. Therefore, whilst a condition could be imposed to secure future management of the existing trees, based on the evidence, I am not persuaded that they would be capable of providing adequate screening for the lifetime of the development, nor would the visual effects of the proposal be suitably mitigated by the implementation of new planting.
9. For these reasons, and whilst acknowledging that the overall height of the proposal would sit below the ridge height of the immediate neighbour, I find that the appeal proposal would read as a visually obtrusive and incongruous form of development. In coming to this view, I have had regard to the 2018 planning permission¹. Although the design concept is similar, unlike the appeal proposal, the previous scheme was separated into two, relatively modest buildings and featured a pitched roof. Consequently, whilst the height of the dwelling exceeded the appeal scheme, the overall mass and form of the 2018 proposal was notably different and therefore did not read as a prominent and incongruous addition. To this end, even if this permission remained extant, the previous acceptance of this less harmful option does not weigh in favour of this proposal.
10. Accordingly, I find that the proposed development would adversely affect the character and appearance of the area contrary to Policies CS11 and CS12 of

¹ 4/01791/18/FUL

Dacorum's Local Planning Framework Core Strategy 2006-2031. Amongst other aspects, these policies seek to ensure that development proposals integrate with the streetscape character and avoid visual intrusion.

Chilterns Beechwoods SAC

11. The Chilterns Beechwoods SAC is designated under the Habitat Regulations due to the importance of its habitats. These habitats include Beech forests, semi-natural dry grasslands and scrubland facies on calcareous substrate together with dry grasslands and scrublands on chalk or limestone. The Chilterns Beechwoods SAC is separately notified at a national level as a Site of Special Scientific Interest under the provisions of the Wildlife and Countryside Act 1981. The conservation objectives for the designated site are to ensure that the integrity of the site is maintained or restored as appropriate and that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features.
12. Research undertaken to inform the production of the Council's Emerging Local Plan found that the greatest pressure experienced on the Chilterns Beechwoods SAC arises from recreational pressure. Damage through trampling was found to be the most widespread impact with widened paths and extensive areas of bare and compacted ground. The study indicates that new development within a 12.6km radius of the designated site (Zone of Influence) would have an adverse effect on its integrity unless avoidance and mitigation measures are in place.
13. The proposal would result in new residential development within the Zone of Influence, and therefore could give rise to increased recreational pressure on the designated site. Consequently, either alone or in combination with other plans and projects, the proposal would have a likely significant effect on the integrity of the Chilterns Beechwoods SAC. As the competent authority, it is therefore necessary for me to conduct an Appropriate Assessment.
14. As a form of mitigation, the MS sets out that new residential development within the defined zone of influence will be required to make a financial contribution towards the Strategic Access Management and Monitoring Strategy (SAMMS) projects (as listed within Appendix A or as superseded) and secure or make proportionate contributions towards the delivery of Suitable Alternative Natural Green Space (SANG). The strategy confirms that these sums will be secured through an appropriate legal agreement.
15. It has been put to me by the appellant that the necessary financial contribution could be secured by a condition as mitigation. However, the Planning Practice Guidance indicates that a condition requiring a planning obligation to be entered into is only likely to be appropriate in exceptional circumstances. In this case, no such circumstances have been put to me by the appellant. Consequently, even if the proposed mitigation was acceptable, in the absence of any suitable mechanism to secure the required contribution, I cannot be certain that the mitigation required to ensure that the development would not adversely affect the Chilterns Beechwoods SAC would be secured.
16. As the competent authority, I need to be certain that the proposal would not have an adverse effect on the integrity of the Chilterns Beechwoods SAC. However, in the absence of an appropriate legal agreement, I cannot ascertain this. In such circumstances, the Habitat Regulations set out that the competent

authority may only agree to the project if there are no alternative solutions, and the project must be carried out for imperative reasons of overriding public interest. Although no alternative solutions have been put to me, the available evidence does not indicate that the proposal meets the tests of overriding public interest. Therefore, under the Habitat Regulations, I cannot agree to the proposal.

Other Matters

17. It has been put to me by the appellant that the proposal would utilise a small site, in a location suitable for residential development and would provide a highly sustainable and energy efficient scheme suitable for occupation by a family. I also recognise the potential biodiversity opportunities resulting from the provision of the green roof. Whilst these benefits are acknowledged, they do not outweigh the harm that I have identified. In addition, whilst noting that the Council has not objected to the proposal on any other grounds including the effect of the proposal on living conditions and highway safety, this does not persuade me that the development is acceptable.
18. I understand that the appellant may feel that they have received misleading pre-application advice from the Council. However, such advice is given without prejudice to any future decision and therefore this has no bearing on my considerations of the appeal proposal. This therefore does not lead me to a different conclusion.

Planning Balance and Conclusion

19. The Council does not dispute the appellant's assertion that it is unable to demonstrate a five-year housing supply. Paragraph 11 of the Framework directs that where relevant policies are out of date, permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development or that any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
20. In this case, I have identified a risk of adverse effects on the integrity of the Chilterns Beechwoods SAC either alone or in combination with other projects and plans, which for the purposes of Paragraph 11 is defined as a habitat site. Consequently, this provides a clear reason for refusing the development and thus the presumption in favour of sustainable does not apply.
21. For the reasons outlined above, the appeal proposal conflicts with the development plan read as a whole and no material considerations have been shown to indicate that a decision should be taken otherwise than in accordance with it. Therefore, the appeal is dismissed.

H Wilkinson

INSPECTOR