



Appeal Decision

Site visit made on 18 July 2023

by Nichola Robinson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 August 2023

Appeal Ref: APP/X0415/W/22/3313207

Fairfield, Coleshill Lane, Winchmore Hill, Buckinghamshire HP7 0NR

- 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 David Carlin (Carlin Design Services) against the decision of Buckinghamshire Council.
 - The application Ref PL/22/3176/FA, dated 8 September 2022, was refused by notice dated 9 December 2022.
 - The development proposed is described as 'demolition of existing 3 bedroomed detached property and erection of 2no. semi-detached 4 bedroomed dwellings'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal site is in the Green Belt. The Framework confirms that the Government attaches great importance to Green Belts. The identified fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence. The Council state that the proposal would not be inappropriate development and would not compromise the openness of the Green Belt. Based on the plans before me and my observations on site I see no reason to take a different view. Accordingly, the proposal is not inappropriate development in the Green Belt and does not conflict with the guidance set down in the National Planning Policy Framework (The Framework) on this matter.
3. The appeal site is located within the Chilterns Area of Outstanding Natural Beauty (AONB). Paragraph 176 of the Framework states that great weight should be given to conserving and enhancing landscape and scenic beauty in Areas of Outstanding Natural Beauty. The Council raise no objections to the effect of the proposal on the scenic beauty of the AONB. Based on the plans before me and my observations on site I see no reason to take a different view. Accordingly, the proposal does not conflict with the guidance set down in the Framework on this matter.

Main Issues

4. The main issues are the effect of the proposal on:
 - the character and appearance of the area;
 - protected species; and
 - biodiversity

Reasons

Character and appearance

5. The appeal site comprises a large, detached dwelling which is located on the south side of Coleshill Lane. Whilst there is a small cluster of small dwellings on the north side of the lane, dwellings on the south side predominantly comprise large dwellings set within substantial plots. Whilst most of the dwellings on Coleshill Lane are set back from the highway behind a hedge, a number of properties have hard landscaped front gardens which accommodate parking, some of which span the width of the property frontage. Nonetheless, the presence of grass verges throughout the lane, along with planting within front gardens, gives this area a spacious, green and verdant character.
6. The appeal proposal would replace the existing dwelling with a pair of semi-detached properties. The height and width of the building and set back within the plot would be consistent with other dwellings in the lane. The pitched roof would be consistent with the varied roof forms in the surrounding area, and the row of projecting gables to the front elevation would pick up gable features within the street scene. The separation between the proposed building and the site boundaries would be consistent with the plot layout in the surrounding area and the characteristic gap between dwellings would be retained.
7. The proposed dwellings would be provided with car parking to the site frontage which would be surfaced with crushed stone. Though the retention of the existing hedgerow is referenced, the access arrangements would require the removal of part of this hedgerow along with the loss of the existing lawned front garden. Whilst the proposed layout would be dominated by parking and hard landscaping, nonetheless, this would not appear inconsistent with other property frontages in the surrounding area.
8. Nonetheless, the building would have a greater depth than dwellings in the lane and the extensive flank walls and extensive roof form would appear as prominent features within the street scene. In these views, the proposed building would appear bulkier than other dwellings in the surrounding area and would appear as an imposing and incongruous feature within the street scene.
9. Furthermore, whilst there is variety in dwelling sizes and plot widths in the surrounding area, the proposed plot widths and dwellings sizes would be significantly smaller than other dwellings on the south side of the lane. This narrow plot width, in combination with the dominance of car parking and hard landscaping to the site frontage, would result in built form which would appear cramped and contrived, contrary to the character of the area on the south side of the lane.
10. In light of the above, I find that the proposal would result in harm to the character and appearance of the surrounding area. Therefore, the proposed development would conflict with those aims of Policies GC1 and H3 of The Chiltern Local Plan (1997) (LP) and Policy CS20 of the Core Strategy for Chiltern District (2011) (CS) which seek to ensure that development reflects and respects the character of the surrounding area and is in scale with its surroundings. I also find conflict with the Framework which requires that developments should be sympathetic to the surrounding built environment. I find conflict with the National Design Guide which advocates well-designed new

development which responds positively to local context including the height, scale, massing and relationships between buildings.

Protected species

11. The appeal site is in a village which contains a pocket of woodland comprising mature trees, habitats of which are likely to be used by bats for foraging and commuting. The proposal would include the demolition of the existing dwelling. I cannot be certain that the roof does not have the potential to support bats, given the location of the building.
12. The presence of a protected species is a material consideration, and 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 planning permission is granted. The proposal is not supported by an ecological survey, and thus there is insufficient information to demonstrate that protected species would not be adversely affected by the proposed development.
13. I therefore conclude that the appellant has failed to demonstrate that the proposal would not harm protected species, specifically bats. Accordingly, the proposed development would conflict with those aims of CS Policy CS24 which seek to protect and enhance legally protected species.

Biodiversity

14. CS Policy CS24 details that the Council should aim to conserve and enhance biodiversity and in particular, development proposals should protect biodiversity and provide for the long-term management, enhancement, restoration and, if possible, expansion of biodiversity, by aiming to restore or create suitable semi-natural habitats and ecological networks to sustain wildlife.
15. Paragraph 174 of the Framework requires that planning policies and decisions should contribute to and enhance the local environment in a number of ways, including minimising impacts on and providing net gains for biodiversity. Planning Policy Guidance¹ defines biodiversity net gain as works which deliver measurable improvements for biodiversity by creating or enhancing habitats in association with development.
16. There is a 10% biodiversity gain requirement set by the Environment Act 2021. However, the statutory requirement is not mandatory because of the transitional period for implementation. As such, limited weight can be placed on a 10% biodiversity requirement and taking all considerations into account, a simple biodiversity net gain requirement needs to apply to the proposal.
17. The proposal would incorporate an area of planting to the site frontage, and it is proposed to incorporate bird boxes and bee bricks into the development. Nonetheless the proposal would result in the loss of soft landscaping and part of the hedgerow to the front of the site to facilitate the site access and parking arrangements.
18. The proposal is not supported by any reports which include a Biodiversity Metric calculation and it has not been demonstrated that the proposal would deliver any biodiversity enhancement. Therefore, the proposals would conflict

¹ paragraph 022, Reference ID: 8-022-20190721.

with those aims of CS Policy CS24 which require that development proposals provide for the long-term management, enhancement, restoration and, if possible, expansion of biodiversity. I also find conflict with Paragraph 174 of the Framework which requires that decisions should contribute to and enhance the natural environment.

Other Considerations

19. The appellant states that the existing dwelling is extremely energy inefficient, and the proposed dwellings would be more energy efficient. This would meet the aims of CS Policy CS4 and weighs in favour of the proposal. Given the scale of the proposal, I attribute limited weight to this benefit.
20. The Council raised no objections to the effect of the proposal on the living conditions of the occupiers of neighbouring dwellings and I see no reason to take a different view. However, the absence of harm in this regard does not weigh in favour of the proposal.
21. The proposal is likely to be able to meet with the relevant local and national policies in terms of parking, access and highway safety and would make adequate provision for refuse collection and access for the fire service. However, the absence of harm in this regard does not weigh in favour of the proposal, as it would be required in any event.
22. The appellant states that a more detailed Ecology or Landscaping report could have been provided if it had been requested by the Council during the application process. However, this is not a matter for consideration in this appeal which focusses on the planning merits of the proposal.

Planning Balance

23. The appellant states that the current local plan is dated having been adopted in 1997 and consolidated in 2007 and 2011. However, the appellant has not substantiated how or why the current local plan is out of date, and I have not been drawn to any inconsistencies between the relevant development plan policies and the Framework. Nonetheless, the Council has confirmed that it is not able to demonstrate a five-year supply of deliverable housing sites and is unable to identify sufficient housing land supply. I have no reason to take an alternative view.
24. As the proposal involves the provision of housing, Footnote 8 of the Framework indicates the most important policies for determining the appeal are deemed to be out of date and paragraph 11. d) ii. of the Framework is engaged unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Footnote 7 of the Framework lists AONBs as one such asset of importance. Nonetheless the proposal would not result in harm to this protected landscape and therefore the policies in the Framework which relate to the AONB do not provide a clear reason for refusing the development. Therefore paragraph 11. d) ii. of the Framework is applicable and requires that permission should be granted unless 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.

25. I have found that the proposal would result in harm to the character and appearance of the area and protected species and would fail to deliver biodiversity net gain. Therefore, the proposal conflicts with those aims of CS policies CS20 and CS24 and LP Policies GC1 and H3. I attach moderate weight to these conflicts.
26. Good design, including consideration of the effects on character and appearance, is also a key aspect of sustainable development. Consequently, the proposal would conflict with the development plan when taken as a whole. Given the consistency between the policies with which a conflict has been identified and the Framework I give substantial weight to this conflict.
27. The proposal would have some benefits as identified above. Furthermore, I acknowledge that it would make a small contribution towards the district's housing supply. This would contribute to the Government's objective to significantly boost the supply of homes. This factor weighs in favour of the scheme. Given the limited scale of the development I attach limited weight to the development's positive contributions to the social and economic objectives of the Framework.
28. However, the adverse impact which I have identified to the character and appearance of the area and protected species would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Therefore, the proposal would not be a sustainable form of development. The conflict with the development plan is not outweighed by other considerations including the Framework. Consequently, the decision should be taken in accordance with the development plan with which I have identified conflict.

Conclusion

29. The appeal proposal would result in harm to the character and appearance of the area and protected species and would fail to deliver biodiversity net gain. Consequently, it fails to accord with the development plan taken as a whole. Therefore, for the reasons given above, the appeal should be dismissed.

Nichola Robinson

INSPECTOR