



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: 1 September 2023

Appeal Ref: APP/X0415/W/22/3312184

4 Grimsdells Corner, Sycamore Road, Amersham, Buckinghamshire HP6 5EL

- 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 Thomdell Developments Ltd against the decision of Buckinghamshire Council.
- The application Ref PL/22/2577/FA, dated 19 July 2022, was refused by notice dated 13 October 2022.
The development proposed is described as 'demolition and redevelopment of garage site to erect a three-storey residential block comprising five apartments and the change of use of ground floor of existing building to two residential apartments'.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. A Unilateral Undertaking (UU) dated 18th May 2023 has been submitted with the appeal which includes a mechanism to contribute towards Strategic Access Management and Monitoring (SAMM). The Council has been given the opportunity to comment on this UU. On this basis, I do not consider that any party would be unfairly prejudiced, and I therefore have had consideration to this in my decision. I will return to this matter later in my decision.
3. An amended plan was submitted with the appeal. This represents a minor alteration to the original scheme. On this basis, I do not consider that any party would be unfairly prejudiced, and I therefore have had consideration to the submitted drawings in determining this appeal.

Main Issues

4. The main issues relevant to this appeal are:
5.
 - the effect of the proposed development on the integrity of the Chiltern Beechwoods Special Area of Conservation (SAC); and
 - the effect of the proposed development on highway safety and the free movement of traffic with particular regard to on-site car and cycle parking provision.

Reasons

Impact on the Chiltern Beechwoods SAC

6. Chiltern Beechwoods SAC is made up of 9 constituent Sites of Special Scientific Interest (SSSIs) and comprises beech forests on neutral to rich soils and semi-

natural dry grasslands and scrublands on chalk or limestone. Fallen dead timber provides habitat for invertebrates including the stag beetle. These comprise the qualifying features of the SAC. The conservation objectives are to ensure the integrity of the site is maintained or restored and ensure the site contributes to achieving the favourable conservation status of its qualifying features.

7. The qualifying features of the SAC are threatened by disturbance as residents in the surrounding area use the SAC for recreation. In particular, the concerns are damage from trampling of the ground other than paths, vegetation wear, soil compaction and erosion; contamination including nutrient enrichment, for example from dog fouling, litter and invasive species; increased incidence and risk from fire; and other impacts such as harvesting, and activities associated with site management.
8. All public bodies have a duty to take reasonable steps to further the conservation and enhancement of this designated area. Natural England advises that there is the potential for significant impacts on the SAC as a result of any net increase in residential development within the zone of influence. This is due to pressures on the site by reason of its attractiveness as a location for recreation. The Conservation of Habitats and Species Regulations 2017 (the Regulations) require competent authorities, before granting consent for a plan or project, to carry out an appropriate assessment (AA) in circumstances where the plan or project is likely to have a significant effect on a European site, alone or in-combination with other plans or projects.
9. Notwithstanding the small scale of development proposed, given the site's location in the zone of influence of the SAC, adequate mitigation measures to avoid additional recreational impacts from net increases in development would be needed, in order for the AA to be able to conclude that there would be no adverse effects on the integrity of the SAC. The appellant has put forward financial contributions to SAMM as mitigation to address these effects. However, whilst Natural England is working with the relevant local authorities to develop a strategic solution to address the increased recreational pressure on the SAC through the provision of Suitable Alternative Natural Greenspace (SANG), at the time of this decision no solution is in place. In light of this, and in the absence of a scheme for the provision of SANG or a Habitat Regulations Assessment (HRA) submitted in support of the appeal, I have insufficient evidence before me to demonstrate that the impacts of the proposed development could be avoided or mitigated so that the integrity of the SAC would be preserved.
10. My attention has been drawn to an appeal decision¹ in which the Inspector accepted that financial contributions to a SAMM agreement would be sufficient to ensure that a scheme would have no adverse effect on the SAC. I have very little information about the AA that was conducted or the reasons why in that case the payment towards SAMM was deemed sufficient.
11. The evidence in this case indicates that as well as SAMM measures, Natural England and the Council have made clear that, in order to avoid significant adverse effects, measures to provide SANG are also required. In the absence of any scheme for the provision of SANG by the Council or put forward as part of this proposal I am unable to conclude that the proposal would have no adverse

¹ APP/J0405/W/22/3292202

effect on the SAC. Therefore, all that this appeal decision brings is evidence that the Inspector was satisfied that based on the evidence before them the effects on the SAC would be mitigated. That is not the case here and therefore a different conclusion should be reached.

12. Consequently, I conclude that there is insufficient evidence before me to demonstrate that the proposed development would not lead to adverse effects on the integrity of the Chiltern Beechwoods SAC. Whilst CS Policy CS24 does not explicitly require that developers provide a financial contribution in affected areas, nonetheless this policy aims to conserve and protect biodiversity and provide for the long-term management, enhancement, restoration and if possible, expansion of biodiversity and this would not be achieved in this case. I also find conflict with the relevant provisions of Paragraph 180 of the Framework, which seeks to prevent significant harm to biodiversity from development, and the Habitats Regulations. The Regulations do not allow me, as a competent authority, to agree to the proposed development, an approach supported by the Framework. This consideration therefore carries great weight in my determination of the appeal.

Highway safety and the free movement of traffic

13. The appeal site comprises a 2 storey former commercial unit which forms part of a row of commercial units at Grimsdells Corner, an outbuilding and parking area to the rear of the site. The site is located on Grimsdells Lane near to Amersham Town Centre, bus stops on Sycamore Road, and the Amersham railway/ underground station. There is a footway and dedicated pedestrian crossing connecting the site to the town centre and station and the topography of the surrounding area is flat. There are double yellow line parking restrictions in place to the site frontage and parking restrictions on the surrounding roads.
14. The proposed flats would be served by 2 car parking spaces to the site frontage, which would be accessed via the existing access from Grimsdells Lane, and 10 cycle parking spaces within 2 cycle storage areas.
15. Paragraph 107 of the National Planning Policy Framework (the Framework) advises that when setting local parking standards policies should take into account a number of factors including the accessibility of the development, the type, mix and use of development, the availability of and opportunities for public transport, local car ownership levels and the need to ensure an adequate provision of spaces for charging plug-in and other ultra-low emission vehicles. The Council's parking standards are set out in the Buckinghamshire Countywide Parking Guidance (2015) (BCPG). In line with the guidance in Paragraph 107 of the Framework the BCPG separates the district into 3 zones based on population size, accessibility of public transport and car ownership levels based on the 2001 Census from the Office of National Statistics (ONS). The BCPG is a material consideration in the determination of this appeal.
16. The appeal site is located in Amersham which forms part of 'zone B' based on its classification as a mid-range area of population. Car parking standards are calculated based on the number of habitable rooms but also include a calculation based on number of bedrooms as an approximate conversion.
17. The BCPG sets out the optimum standards for new development and requires that 2 spaces are required for residential units with 2 bedrooms and one space is required for residential units with one bedroom in zone B. The Council have

assessed units 1,2,3,4 and 6 as 2-bedroom units on the assumption that the study could be used as a bedroom. However, based on the proposed floor area the studies would appear to be too small to adequately function as a bedroom. Furthermore, the application form references one-bedroom flats, and the plans clearly label these rooms as a study. It is therefore appropriate to consider these units as one-bedroom flats.

18. On account of the number of proposed bedrooms, 9 car parking spaces would be required. Based on the number of habitable rooms 7 car parking spaces would be required. This represents a shortfall of between 5 and 7 spaces dependent on the method of calculation. Even if I were to take the lower of these two figures this represents a significant shortfall in parking provision.
19. The BCPG states that the optimum parking standards should be adhered to unless specific local circumstances can justify deviating from them. The appellant has sought to provide evidence based on the 2011 Census that the local level of car ownership does not require the level of car parking set down in the BCPG. The appellant states that this data shows that 86% of flats in the area have one or fewer cars and this therefore justifies a reduction in the level of parking provision.
20. The data provided by the appellant shows that 50% of flats in the area have one car and 14% have 2 or more cars. Based on these figures, even if rounding down to the nearest whole number, the development would generate 5 vehicles. There is no evidence that the occupants of the one-bedroom units would not own a car. Therefore, notwithstanding the Highway Officer's comments on previous proposals and the age of the BCPG, it has not been demonstrated that car ownership levels in this location would support a reduction in the level of car parking to the extent proposed. Therefore, insufficient evidence for this deviation from the parking standards in the BCPG has been provided.
21. There is no compelling evidence of illegal parking on nearby roads or any particular issues with the free flow of traffic. Furthermore, whilst the main parties agree that there is low parking availability on-street in the surrounding area, there is no persuasive evidence of extreme parking pressure in the immediate locality. Even if future occupiers of the development did park on nearby residential roads, there is no compelling evidence that the displaced parking would prevent the free flow of traffic on the adjoining highway network or compromise highway safety. Furthermore, whilst journeys to these areas may involve the crossing of roads without the benefit of a dedicated pedestrian crossing, this would be a possible disincentive to the use of these spaces but not an insuperable one, and I have no compelling evidence before me that the use of these areas would be particularly harmful to highway or pedestrian safety.
22. In light of the above, there is no compelling evidence that the shortfall in parking provision would compromise highway or pedestrian safety or the free flow of traffic on the surrounding highway network. Furthermore, it is likely that the lack of car parking within the appeal site and the parking situation in the surrounding area would act as a deterrent to car ownership.
23. Additionally, whilst the site is some distance from the nearest public car park, and thus therefore not directly comparable to recent decisions cited by the appellant in which lower levels of car parking were accepted based on the

sustainable nature of the location², nonetheless it is well located in relation to local facilities and services in Amersham town centre and public transport. Therefore, whilst future occupiers may use their own transport to carry out some parts of their daily lives, the range of facilities nearby and access to public transport means that future occupiers would have good options to access facilities without needing to use a private vehicle and anyone living in the proposed flats would be reasonably able to access these services in line with the Framework's sustainable transport aims.

24. The BCPG states that there should be storage space for 1 bicycle for every 1-bedroom unit and storage for 2 bicycles for every 2-bedroom unit. This results in a requirement for 9 cycle storage spaces. The proposed development would make provision for 10 cycle parking spaces³. Given my earlier conclusions on the status of the proposed study rooms, the provision of 10 cycle spaces would exceed the cycle storage requirements set down in the BCPG and there would not be any shortfall in cycle parking provision. Therefore, the necessary facilities to facilitate travel by bicycle would be provided.
25. I have found that the individual characteristics of this particular site would enable the proposal to be accommodated without harm to the operation of the highway network and highway and pedestrian safety. I see no reason to suppose that my decision in this case would set a precedent. Differing circumstances would represent matters to be considered were other similar proposals to be advanced elsewhere in the future.
26. The appellant has also drawn my attention to Chiltern District Local Plan (1997) (LP) Policy TR12 which, it is stated, gives additional support to the proposed level of parking provision. I note that the Council hasn't commented on this policy or the relevance to the proposal. However, even if the appellant were wrong on this matter, I have found that in this particular case the consequences of the shortfall in parking would not result in harm to highway safety or the free flow of traffic on the surrounding highway network.
27. Therefore, whilst there would be conflict with the BCPG, the Buckinghamshire Council Local Transport Plan 4 (2016) (LTP4) and the Buckinghamshire Council Highways Development Management Guidance Document (2018) (DMGD), which reference the application of the parking standards set down in the BCPG for new development, nonetheless the proposal would accord with the wider objectives of LTP4 and DMGD which seek to ensure that developments are accessible to all and permeable by all modes of transport and to ensure that appropriate parking is provided in the right places.
28. I find that the proposal would be compatible with the stated objectives of Policies CS4 and CS26 of the Core Strategy for Chiltern District (2011) (CS) which collectively seek to ensure that all new developments have regard to the sustainable development principles including development in locations which are easily accessible by public transport, walking and cycling and ensure that all vehicular traffic generated by future development does not materially increase traffic problems. Whilst referred to by the Council in the reason for refusal, CS Policy CD25 references that proposals should be consistent with and contribute to the agreed transportation strategies set down in The Buckinghamshire Council Local Transport Plan 3, which has since been

² Application references PL/21/0488/PNO/GA, PL/20/0843/FA and PL/20/1663/FA

³ As shown on drawing RGC109_PL820 Rev A

superseded by LTP4. Notwithstanding this, as set out above I consider that the proposal would contribute to many of the aims of LTP4, in particular with regard to the encouragement of walking and cycling.

29. I also find no conflict with the Framework which requires that development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes and which states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety.

Other Matters

30. The appellant states that the current local plan is dated having been adopted in 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 see no reason to take an alternative view.
31. 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 requiring 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, 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 habitats sites as one such asset of importance.
32. The proposal would make provision of 7 residential units on Previously Developed Land in an area at low risk of flooding within the settlement boundary and is well served by services and public transport and not constrained by Green Belt designation. The proposal would make provision for enhanced landscaping and there would be short term economic benefits associated with construction, Council tax revenues in the longer term and future occupiers may contribute to the economic prosperity of the local area through the use of local facilities and services. These matters weigh in favour of the proposal. Nonetheless, and notwithstanding the fact that the Council and Natural England are working on a mitigation strategy to address the effects on the SAC, in accordance with paragraph 180 of the Framework, my inability to conclude that adverse effects on the integrity of the Chiltern Beechwoods SAC as an area of particular importance can be avoided provides a clear reason for refusing the development proposed. As such, the proposed development would not benefit from the presumption in favour of sustainable development in this instance.
33. The appellant states that the current proposal has made a number of changes to the previous scheme⁴ to try and address the reasons for refusal including a reduction in the number of units and, it is stated, reflects the pre-application advice given by the Council⁵. The Council raised no objection to the design and

⁴ Application reference PL/22/0890/FA

⁵ Reference PQ/21/40933/PREAPP

layout of the proposal including the proposed access arrangements, housing mix, the effect of the proposal on the living conditions of the occupiers of neighbouring properties or the standards of living environment for future occupiers. Based on the plans before me I see no reason to take a different view. Nonetheless, I have found harm in relation to the first main issue.

Conclusion

34. The proposal would result in development plan conflict with respect to its effect on the integrity of the Chiltern Beechwoods SAC. Whilst I have not identified any harm in relation to the effect of the proposal on highway safety and the highway network, I find that the proposals would be contrary to the development plan, taken as a whole.
35. There are no material considerations that indicate the proposal should be determined other than in accordance with the development plan. Consequently, I conclude that the appeal should be dismissed.

Nichola Robinson

INSPECTOR