



Appeal Decision

Site visit made on 3 October 2023

by J Gunn DipTP, DipDBE, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 October 2023

Appeal Ref: APP/X0415/W/23/3317495

Mandeville House, 62 The Broadway, Amersham HP7 0HJ

- 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 Eric Gadsen against the decision of Buckinghamshire Council - East Area (Chiltern).
 - The application Ref PL/22/3479/FA, dated 30 September 2022, was refused by notice dated 22 November 2022.
 - The development proposed is the construction of 4No. balconies and changes to external appearance.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has submitted an amended plan with his appeal, referenced drawing number 22/3527/4 Revision A, which indicates the provision of 31 parking spaces. This number of spaces equates to that required when the office development was originally permitted in 1985. He has asked that I consider this amended plan when assessing the appeal proposal.
3. The appellant has also indicated he would be willing to accept a condition requiring the submission of details of side screens to the proposed first floor balconies, should they be deemed necessary, to protect the privacy of adjoining occupiers.
4. With regard to both of these matters I am mindful of the advice, as given in Section 16 of the Procedural Guide: Planning appeals, which advises that if an appeal is made the appeal process should not be used to evolve a scheme. I am also conscious that interested parties, including neighbouring residents and consultees may not be fully aware of the amendments or their consequences.
5. In light of the above, I have dealt with the appeal as per the drawings originally submitted. To do otherwise would be potentially prejudicial in terms of fairness to the Council and other interested parties who may have wished to express a view on such a proposition.

Main Issues

6. The main issues in this case are:
 - the effect of the proposal on the living conditions of the occupiers of neighbouring properties with particular regard to privacy, and;

- the effect of the proposal on highway safety, with particular regards to car parking.

Reasons

Living conditions

7. The appeal site is located on lower ground than the residential properties, located in Piggotts End, that lie to the south. There would be a significant distance between the proposed balconies and the dwellings, and as a result I accept that there would not be an adverse impact on privacy within habitable rooms of the properties. However, given the topography of the land, and the limited screening provided by boundary fencing and landscape feature, there would be substantially open views into the rear gardens. This would be particularly the case during winter months when the trees lose their leaves.
8. Whilst I acknowledge that the views would be similar to those that could be achieved through the existing windows located in the rear walls of the office building, in my view the use of the balconies would significantly increase the perceived loss of privacy experienced by users of the gardens to the south. This would make the gardens less pleasant places to use and enjoy. In making this assessment I am mindful that the rear gardens of the properties are also overlooked to a degree from neighbouring properties. However, any overlooking arising from neighbouring occupiers is a normal expectation within a residential area and does not justify the proposal.
9. 60 The Broadway is located at the same ground level as the host building and has a common boundary with the appeal site. The property sits towards the front of its plot, has a number of outbuildings, and a modest sized garden to the rear. A number of trees, of varying height, species and quality, are located within the curtilage of No 60, close to the common boundary. Although these trees provide a partial screening to the property, and its grounds, they are not in the control of the appellant and there is no certainty that they can continue to be relied upon to mitigate any overlooking that might arise from the proposal.
10. The proposed balcony that would lie closest to the common boundary with No 60 would be located a very short distance from the boundary. However, given the juxtaposition of the respective buildings, together with the scale and height of the buildings located within the curtilage of No 60, it is my view that this element of the proposal would not result in overlooking into habitable rooms of the property, that would result in a loss of privacy. Moreover, whilst there would be views from this balcony towards the southernmost part of No 60's garden, any views would be at a distance, therefore any overlooking would be limited.
11. The proposed westernmost balcony on the southerly part of the rear elevation is at a greater distance from the common boundary with No 60, however there would be a more open view from it into the rear garden. Consequently, overlooking would be likely to occur. In this regard I am mindful that the appellant has indicated a willingness to provide a 1.8m high screen, along the sides of the balcony to restrict views into the neighbouring garden. Whilst I accept that this could potentially limit the field of view from the balcony, I am not persuaded that it would prevent overlooking into all parts of the garden. Consequently, the proposal would significantly reduce the level of privacy

within the rear garden of No 60 and make it a less pleasant place to use and enjoy.

12. Accordingly, on this main issue, I conclude that the proposal would be contrary to Policy GC3 of the LP which, amongst other matters, seeks to protect the amenities enjoyed by the occupants of neighbouring properties.

Car parking

13. Saved policy TR11 of the Chiltern District Local Plan (LP) adopted September 1997 (with alterations adopted 29 May 2001 and consolidation dated September 2007 and November 2011), requires vehicle parking and manoeuvring provision to be made in accordance with the standards set out in Policy TR16. For office uses Policy TR16 required the provision of 1 car space per 25 m² gross floor area or part thereof up to 300m², and thereafter 1 car space per 30 m² or part thereof. Using this criterion 31 parking spaces would have been required for the host building, with 32 spaces ultimately being provided. The criteria is subject to the provision of facilities for loading, unloading and manoeuvring of goods vehicles, together with provision for disabled drivers vehicles, cycles and motorcycles, with exceptions to the criteria being set out in Policy TR12.
14. The Buckinghamshire Countywide Parking Guidance (dated 2015) postdates the saved policies of the LP and sets a higher requirement of 1 parking space per 21 m² for the same use. If judged against this policy 40 parking spaces would be required. However, I am not persuaded that the planning system should be used to seek additional parking provision, above and beyond that which was required in the first instance.
15. The appeal proposal would result in the provision of 27 parking spaces, a loss of 5 parking spaces, and a shortfall of 4 spaces when measured against the parking standards adopted at the time the host building was approved in 1985. Any additional floorspace arising from the provision of the proposed balconies would be negligible, and accordingly I have not factored in any additional parking requirement should they be provided.
16. The appeal site lies towards the eastern end of The Broadway which forms part of the main shopping district of Old Amersham Town. Just to the north of The Broadway I saw that there was a public car park at Mary's Court, which had provision for the parking of 170 cars. I also saw that on-street parking was available, albeit for a limited duration. At the time of my site visit the area was busy and, although some spaces were available that could accommodate additional vehicles, demand was high. I accept that my site visit only represents a snapshot in time, but I have no evidence before me to indicate that what I saw did not represent a typical weekday situation. I have discounted the potential for employees and visitors to use the parking facilities at the nearby Tesco store as the land is not in the control of the appellant.
17. The appeal site does not lie within a District or Local Shopping Centre, which would provide an exemption under Policy TR12. Moreover, no evidence, including a parking survey, has been provided to demonstrate that there is spare capacity in the locality to accommodate any overflow parking from the appeal site. As a result, I am not persuaded that, in the event that all of the available parking spaces within the appeal site were occupied, there would still be space available within the vicinity of the site to accommodate future needs.

Failure to find an allocated space within the appeal site would also be likely to result in unmanaged parking arrangements within the site and the possibility of vehicles reversing onto The Broadway. This would compromise highway safety.

18. Accordingly, on this main issue, I conclude that that proposed development would have an adverse impact on highway safety, with particular regards to car parking. Consequently, it would be contrary to Policy TR11 of the Chiltern District Local Plan which seeks, amongst other matters, to secure parking provision within the development site in accordance with the standards set out in Policy TR16.

Other Matters

19. I have noted the views of the main parties with regards to the relationship of the host building with No 60, and the acceptability of existing windows in the western elevation. More particularly, on my site visit, I was fully aware of the clear glazed windows at first floor level in the western elevation, and the open fire escape, that formed part of the scheme permitted in 1985, and the potential for overlooking to take place. That said, I am not aware of the circumstances and policies that applied at the time the decision was made. In my view the decision to allow those features, at that time, does not justify the appeal proposal, which I have determined on its own merits.
20. I am also mindful of the appellant's desire to provide modern office accommodation that provides break out space for its occupiers. However, I not persuaded that the proposal before me provides the only solution to this aspiration.

Conclusion

21. There are no other relevant material considerations worthy of sufficient weight that indicate the application should be determined other than in accordance with the development plan as a whole. For the reasons given above, I therefore conclude that the appeal should be dismissed.

J Gunn

INSPECTOR