



Appeal Decision

Site visit made on 24 July 2023

by H Wilkinson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 October 2023

Appeal Ref: APP/J0405/W/22/3305182

Winchester House, Bishops Walk, Aylesbury HP21 7LD

- 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 Michael Leon of Kingsley Properties Ltd against the decision of Buckinghamshire Council.
- The application Ref 22/00156/APP, dated 18 January 2022, was refused by notice dated 16 March 2022.
- The development proposed is the demolition of existing garages and erection of 3no. three storey 3 bed town houses.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Following review of the second parking survey¹, the Council has confirmed that they are satisfied that there is sufficient unrestricted parking available in the area to accommodate the likely level of parking displacement. Given that the Council is no longer contesting the first reason for refusal, I have identified the main issues accordingly.

Main Issues

3. The main issues are:
 - the effect of the proposed development on the character and appearance of the area;
 - the effect of the proposed development on the living conditions of nearby residents with particular regard to outlook, overshadowing and daylight;
 - the effect of the proposed development on flood risk;
 - whether the proposed development would provide adequate access to the nearby electricity substation.

Reasons

Character and appearance

4. The appeal site lies within a residential area characterised by blocks of terraces and semi-detached dwellings, flats, and maisonettes. Despite the varied appearance and scale of the built form, there is a sense of regularity derived from the positioning of the buildings within their respective plots and their set

¹ Bishops Walk, Aylesbury Parking Survey Results June 2022

back from the highway which creates a strong pattern of development. In addition, garage courts are a notable feature of the surrounding area providing a visual break between the varied blocks of development and a degree of openness in an otherwise built-up area.

5. The appeal site comprises an area of land to the rear of Bishops Walk, Chaucer Drive and Carlyre Avenue. Two rows of single storey garages currently occupy the site which, as I observed at my site visit are largely redundant for the purpose of resident parking. Nevertheless, they provide a physical boundary between the appeal site and the neighbouring properties and maintain a relatively open buffer between the three/four storey flatted development and the more modest, two storey terraces and semi-detached properties which adjoin the site. In doing so, the sense of openness is reinforced, contributing to the character and appearance of the area.
6. The utilitarian appearance of the proposed building including the external finish would not be wholly uncharacteristic of the surrounding area. However, the introduction of a three-storey building in this location would be in marked contrast with the existing pattern of development, jarring with its regularity. Given the proposed height relative to neighbouring dwellings, this would be noticeable from the wider area. Further, the loss of the existing garage court would reduce the openness of the area consolidating the incongruous form of the proposal. Therefore, whilst I recognise that the appeal site is not devoid of built form and that the proposal would reduce the total area occupied by built form, for the above reasons I find that the proposal would read as an obtrusive form of development.
7. In coming to this view, I recognise that the existing garages are in a poor state of repair. However, given their low profile and back land location, they are not prominent within the street scene. Consequently, I am not persuaded that the proposed development would be justified on this basis. Further, whilst I have had regard to the development at Nos 1-12 Bishops Walk², this scheme relates to a roof extension and not a new building. Therefore, it does not compare to the appeal proposal.
8. Therefore, I find that the proposed development would harm the character and appearance of the area. It would therefore conflict with Policy BE2 of the Vale of Aylesbury Local Plan 2013 -2033 (Local Plan). Amongst other aspects, this policy seeks to ensure that new development respects and complements the physical characteristics of the site and its surroundings including the scale and context of the site and its setting. It would also be inconsistent with the design objectives of the National Planning Policy Framework (the Framework).

Living conditions

9. The submitted plans indicate that the proposed building would be close to the rear boundaries of Nos 1-3 Carlyle Avenue (Nos 1-3), Lichfield House and No 14 Bishops Walk. These properties are located broadly northwest and southeast of the appeal site respectively.
10. Due to the overall height and depth of the proposed building combined with its proximity, it would be overbearing when viewed from the gardens and rear

² 20/02632/APP

habitable room windows of these properties which would have a dominating and enclosing effect on outlook.

11. There is no technical evidence before me in the form of a sunlight and daylight assessment. However, due to the orientation of the appeal site in relation to the path of the sun, the proposed development would introduce overshadowing of the rear gardens of Nos 1-3 to the detriment of the enjoyment of the occupants. The effect of this would be exacerbated by the relatively modest size of the rear gardens and the oppressive outlook which would result from the introduction of the proposed built form. There is however no substantive evidence before me to indicate that there would be a meaningful reduction in daylight. Therefore, I cannot determine with any certainty that this would be sufficient to harm the living conditions of the neighbouring occupants.
12. Turning to Lichfield House and No 14 Bishops Walk, based on the available evidence and the position of these properties relative to the appeal site, I am satisfied that the proposed development would not introduce harmful overshadowing of the garden areas or reduce daylight.
13. Accordingly, whilst I recognise that there would be no harmful overlooking and that the installation of obscure glazing could be secured by condition, for the reasons set out above, the appeal proposal would have an adverse effect on the living conditions of the occupiers of nearby properties with particular regard to outlook and overshadowing. This would be contrary to Local Plan Policy BE3 which seeks to ensure that proposals do not unreasonably harm any aspect of the amenity of existing residents. It would also be inconsistent with the Framework where it seeks to secure a high standard of amenity for existing occupiers.

Flood risk

14. For the purposes of the Environment Agency's Flood Map for Planning (Rivers and Seas), the appeal site is located within Flood Zone 1. Whilst the site would be at low risk of fluvial flooding, it would be in an area at medium risk of surface water flooding. In addition, the evidence indicates that the water table is anticipated to be within 3 metres of the ground surface meaning that there is a high risk of groundwater flooding which may have implications on both surface and sub-surface assets.
15. I have had regard to the sustainable drainage guidance³ as set out in the Council's statement of case. However, it is noted that the Council has recommended a condition requiring the storage of all additional runoff within the site, and its reuse thereafter or alternatively its release into the ground through infiltration. The evidence before me indicates that there is a reasonable basis to suppose that an adequate means of surface water drainage could be incorporated into the proposed development. Therefore, were I to allow the appeal, I consider that the imposition of a condition would be an acceptable approach to ensure that the proposal would be resilient to climate change and would not increase flood risk elsewhere.
16. Consequently, subject to an appropriate condition, I am satisfied that the proposal would be in accordance with Local Plan Policy I4, the principal objective of which is to minimise the impacts of and from all forms of flood risk.

³ Section 3 of the Buckinghamshire Council Minor Applications: Sustainable Drainage Guidance

It would also be consistent with the objectives of the Framework in relation to flood risk and sustainable drainage.

Access to the substation

17. The appeal site boundary adjoins an existing electricity substation which is currently accessed via the appeal site. The submitted block plan indicates the provision of a 3-metre-wide access road to serve the substation together with the relocation of the existing access gates. In addition, the plan identifies two areas of land over which the service provider would require access/right of way to undertake routine maintenance. It is understood that these areas would include land outside of the appellant's ownership and control. In this regard, the appeal documents indicate that notice was served on the adjoining landowners.
18. Whilst I accept that the UK Power Networks quotation does not indicate an agreement to undertake the necessary works, based on the available evidence, it is reasonable to assume that an alternative access could be provided. On this basis, and subject to an appropriate condition as recommended by the Council, I have no reason to conclude that the operational requirements of the power provider would be unduly compromised. Further, while I have had regard to the submissions by interested parties in relation to third party land, this would ultimately be a civil matter to be resolved independent of this appeal. It therefore has no bearing on my considerations of the merits of the appeal proposal.
19. Consequently, I am satisfied that adequate access to the adjacent electricity substation would be maintained. The proposal is therefore consistent with the Framework where it seeks to ensure that new development is integrated effectively with existing businesses and facilities.

Planning Balance and Conclusion

20. The proposed development would contribute to the supply and mix of housing in the area. However, given the scale of the development proposed the benefits would be relatively limited. Further, whilst I have found no harm in relation to flood risk and accessibility to the substation, as neutral factors they neither weigh for or against the proposal. Consequently, the above matters do not outweigh the harm that I have identified to the character and appearance of the area and living conditions.
21. Accordingly, for the reasons outlined above, the appeal proposal conflicts with the development plan read as a whole and no material considerations, including the Framework have been shown to indicate that a decision should be taken otherwise than in accordance with it. Therefore, I conclude that the appeal is dismissed.

H Wilkinson

INSPECTOR