



Appeal Decision

Site visit made on 9 October 2023

by B Phillips BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th November 2023

Appeal Ref: APP/K0425/W/22/3313852

20B Desborough Park Road, High Wycombe HP12 3BQ

- 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 Qadeer Hussain against the decision of Buckinghamshire Council - West Area (Wycombe).
- The application Ref 21/06733/FUL, dated 3 June 2021, was refused by notice dated 27 June 2022.
- The development proposed is 'resubmission (Previous app. 20/06872/FUL) - New single storey bungalow dwelling at the rear of no. 20B.'

Decision

1. The appeal is allowed and planning permission is granted for 'resubmission (Previous app. 20/06872/FUL) - New single storey bungalow dwelling at the rear of no. 20B at 20B Desborough Park Road, High Wycombe HP12 3BQ in accordance with the terms of the application, Ref 21/06733/FUL, dated 3 June 2021, and the plans submitted with it, subject to the conditions set out in the schedule to this decision.

Preliminary Matters

2. The Council's first reason for refusal related to a lack of information submitted with regards to possible impact upon protected species, the ecology of the River Wye corridor and biodiversity net gain. Additional ecological information¹ has been submitted with the appeal and the block plan amended to illustrate a 10m buffer zone to the river and backwater channel.
3. The submitted bat survey report confirms that the garage contains no bat roosts. As such, it states that the ecological value of this building is negligible, and its loss would not cause any harm in ecology terms.
4. Both the Council and Environment Agency are satisfied that, subject to mitigation and enhancement measures being secured, it has been demonstrated that there would not be any harm to protected species or the ecology of the river. As such, the Council are not pursuing reason for refusal 1.
5. The amended block plan (drawing 04A) slightly amends the position of the dwelling. I have considered the revised plans under the principles established by the Courts in Wheatcroft². The alteration is very minor and does not bring the property closer to any neighbouring property. As such, I am satisfied that to consider it would not deprive those who should have been consulted on the

¹ Biodiversity Net Gain (BNG) Report (Elite Ecology, April 2023), Biodiversity Metric 3.1 (Elite Ecology, April 2023), River Condition Assessment (Elite Ecology, March 2023), New Habitat Map (Elite Ecology, March 2023), Bat Activity Survey Report (Elite Ecology, August 2022).

² Bernard Wheatcroft Ltd v SSE [JPL, 1982, P37]

change, the opportunity of such consultation. I have therefore considered the appeal on the basis of these amended plan.

Main Issue

6. The remaining main issue is the effect of the proposal on the character and appearance of the surrounding area.

Reasons

7. Desborough Park Road is a mostly residential road with a mixed character and appearance, with detached or terraced dwellings generally fronting the highway in a linear fashion. However, the appeal site is located to the rear of three single storey properties and one two storey dwelling (Nos 20A, B, C and D) sited behind the road highway facing dwellings and next to a row of garages. These are reached through a narrow access in between Nos 20 and 22. This does not appear as a traditional cul de sac set around a road, and it is noteworthy that the officer report for the approval of No 20D³, described the other three bungalows in this position as having 'established the principle of backland development'. There is therefore development established to the rear of the highway in this location.
8. Plot sizes are varied, with the highway fronting dwellings on Desborough Park Road typically having limited rear garden areas, larger for the bungalows nearby the appeal site. The host dwelling, No 20B, is an exception, as it has a substantial plot extending to the River Wye and backwater channel at the rear. Whilst the trees and hedgerows on each boundary gives the site a verdant quality, the appeal site is neighboured to the north by the large garden of No 20A and the dwellings facing West Wycombe Road, to the south by the residential development along Bartlett Crescent and Bartlett Place. On the other side of the waterway lies an electricity substation, car park and a single storey nurse building off Fryers Lane. As such, whilst a recreation ground is nearby, the appeal site is surrounded by built development.
9. The development would not therefore incongruously extend built development into open space. Given its scale, even when subdivided and including the 10m buffer zone to the waterway, the proposed plot and remaining garden to No 20B would remain slightly larger than the surrounding norm. The development would not therefore appear cramped, and the scale and form of the single storey property would sit comfortably within the wider surrounding established mixed architectural pattern. The amount of hardstanding is generally limited to the access and parking areas, and this would be mitigated and largely screened by soft landscaping. In addition to the 10m buffer to the waterway, this would retain the verdant qualities of the existing site.
10. I acknowledge that there is conflict with the Supplementary Planning Documents 'Residential Design Guidance' (2017), which advises that new dwellings are formed with public frontages and public rear gardens, and 'Housing Intensification' (2011), which points to the issue with 'tandem development', given the difficulties of access. However, as set out above, independent residential development behind the main road is established in this location, including with access between two dwellings serving 4 properties.

³ Application reference 11/06807/FUL

Both SPDs generally require development to respect the existing surrounding context. I have found that this is the case in this instance.

11. Given the unusual position, existing surrounding development and scale of the appeal site, this context would not necessarily be replicated elsewhere given the mixed street scene. Therefore, this scheme does not in my view set a harmful precedent for development elsewhere in the area.
12. In light of the above, I conclude that the development would not harm the character and appearance of the surrounding area. I therefore find no conflict with Policies CP9 and DM35 of the Wycombe District Local Plan (2019) (LP), which seek to ensure that new development is compatible with or enhances the character of the area in which it is to be situated.

Other Matters

13. As set out above, both the Council and the Environment Agency are satisfied with the submitted information regarding protected species and the ecology of the river.
14. On the balance of evidence, including what I observed on site, I consider it unlikely that protected species may be affected by the proposed development. This is subject to conditions (as set out below) ensuring the mitigation and long-term management of habitats, species and other biodiversity features. I therefore find no conflict with the biodiversity protection and enhancement goals of LP Policy DM34 and Policy DM15 of the Delivery and Allocation of Sites Plan (2013), which, in accordance with the National Planning and Policy Framework (the Framework), the Conservation of Habitats and Species Regulations 2017, and Circular 06/2005, states that planning decisions should protect and enhance sites of biodiversity value.

Conditions

15. A list of suggested conditions has been provided that the Council, Environment Agency and/or the appellants consider to be appropriate. I have considered these in light of the Planning Practice Guidance and the tests set out in the Framework. For clarity and to ensure compliance with the tests, I have amended some of the suggested wording.
16. In addition to the standard time limit condition, and those stated above, I have imposed a condition requiring the development to be carried out in accordance with the approved plans as this provides certainty.
17. Conditions relating to a buffer zone, a Construction Environmental Management Plan, a landscape and ecological management plan and landscaping details are necessary to suitably protect biodiversity features and ensure the long-term management of habitats, species and other biodiversity features. These three conditions are required to be pre-commencement to ensure that all details are appropriate, finalised and secured prior to development starting on site.
18. Conditions requiring details of materials and boundary treatments are necessary to maintain the character and appearance of the surroundings and to protect the privacy of neighbouring residents respectively.
19. Conditions ensuring that parking areas and access are in place at an appropriate time are necessary to ensure that occupiers have access to these

features and there is no harm to highway safety. The submission and approval of these details are necessary as the amended block plan does not include these details. A further parking space for No 20B is required in order to ensure that this dwelling retains 2 parking spaces. Given the space around the property, I am satisfied that this is possible.

20. On wider sustainability requirements, a condition to limit water consumption is necessary to ensure relevant compliance with technical standards and policies sought by the LP, as is a condition requiring the installation of electric vehicle charging sockets. Finally, a condition relating to water run off is necessary, in order to ensure the site is satisfactorily drained.
21. The Council recommend a condition removing permitted development rights. The Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification for doing so. The PPG advises that conditions restricting the future use of permitted development rights may not pass the test of reasonableness or necessity. In this case I find that the Council has not provided clear justification that the exercise of such rights would be harmful to the character and appearance of the area. As such I find that such a condition is not reasonable in this case.

Conclusion

22. There are no material considerations that indicate the development should be determined other than in accordance with the development plan. For the reasons given above and having regard to all other matters raised, the appeal is allowed.

B Phillips

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: 101; R293.02; 03; 04A and GSL19106-100.
3. Prior to the commencement of development, a scheme for the provision and management of a 10 metre wide buffer zone alongside the River Wye and its associated backwater channel shall be submitted to, and approved in writing by, the local planning authority. Thereafter, the development shall be carried out in accordance with the approved scheme. Any subsequent variations shall be agreed in writing by the local planning authority, in which case the development shall be carried out in accordance with the amended scheme. The buffer zone scheme shall be free from built development including lighting, domestic gardens and formal landscaping. The scheme shall include:
 - plans showing the extent and layout of the buffer zone;
 - details demonstrating how the buffer zone will be protected during development and managed over the longer term including adequate financial provision and named body responsible for management plus production of detailed management plan;
 - details of any proposed planting scheme which should consist of locally native species of UK genetic provenance;
 - details of any proposed hardstanding, patios, footpaths, fencing, lighting within the development and adjacent to the buffer zone.
4. Prior to the commencement of development (including demolition), a Construction Environment Management Plan (CEMP) detailing, in full, measures to protect existing habitat, including the River Wye, the backwater and the associated riparian corridor during demolition and construction works shall be submitted to and approved in writing by the local planning authority. The development works shall be carried out in accordance with the approved CEMP. Such a scheme shall include details of the following:
 - The timing of the works.
 - Demolition and construction methods.
 - Any necessary pollution protection methods including to prevent contaminated surface water run-off entering the watercourses.
 - Any necessary mitigation measures to be used during demolition and construction in order to minimise potential disturbance and damage to existing and newly created habitats and their associated species.
 - A lighting scheme designed in accordance with the Institution of Lighting Professionals/Bat Conservation Trust Guidance Note 08/23: Bats and Artificial Lighting at Night. This lighting scheme should be designed to cover all aspects of the development from demolition through construction to how the site is operated once the development is completed. This shall ensure that light is directed away from the river, backwater and the riparian corridor associated with the buffer zone in order to protect wildlife such as bats that may use these areas for commuting or foraging.
 - A map or plan showing habitat areas to be specifically protected identified in the Ecological Appraisal.

- Information on the persons/bodies responsible for particular activities associated with the CEMP that demonstrate they are qualified for the activity they are undertaking, for example an Ecological Clerk of Works.
5. Prior to the commencement of development, a landscape and ecological management plan, including long-term design objectives, management responsibilities and maintenance schedules for all landscaped areas within the buffer zone and proposed within the Biodiversity Net Gain proposals, shall be submitted to, and approved in writing by, the local planning authority. The landscape and ecological management plan shall be carried out as approved. The scheme shall include the following elements:
 - details of any new habitat created on-site
 - details of treatment of site boundaries and/or buffers around water bodies
 - details of maintenance regimes
 - details of management responsibilities.
 6. No above ground development shall take place until a fully detailed landscape scheme for the site has been submitted to and approved in writing by the Local Planning Authority. This scheme shall include:
 - details and methodology of proposed restoration works to the backwater off the River Wye;
 - details of ground preparation for planting, seeding etc; and
 - details and layout of all planting, seeding etc proposed as ecological enhancements which shall use locally native species of UK genetic provenance.

The development shall be implemented in accordance with the approved details. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner. Any trees, plants or areas of turfing or seeding which die within a period of 3 years from the completion of the development, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.

7. The development shall be implemented in accordance with the agreed mitigation measures for protected and notable species outlined within the Preliminary Ecological Appraisal, Pages 20-23 and 28-29 (Elite Ecology, January 2022) and ecological features detailed within the Biodiversity Net Gain Report, Pages 19 - 23 (Elite Ecology, April 2023).
8. No above ground development shall take place until details or samples of the materials to be used in the construction of the external surfaces of the development hereby permitted, including surfacing materials, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details or samples.
9. No above ground development shall take place until details of all screen and boundary walls, fences and any other means of enclosure has been submitted to and approved in writing by the local planning authority. The

development shall thereafter only be carried out in accordance with the approved details and retained as such.

10. Prior to the first occupation of the development, details of parking and turning spaces shall be submitted to and approved in writing by the local planning authority. This shall include a second parking space for No 20B. The approved details shall thereafter be implemented prior to the development being brought into use and thereafter kept available for that use.
11. Prior to the first occupation of the development, hereby permitted, a 32amp electric car charging point shall be installed, adjacent to the approved parking area, and thereafter retained for the lifetime of the development.
12. Prior to the first occupation of the dwelling hereby approved, it shall be designed and constructed to meet a water efficiency standard of 110 litres per head per day.
13. Prior to the commencement of development, details of any additional run off not to be stored on site and either reused it or released into the ground through infiltration, shall be submitted to and approved by the local planning authority. These details shall set out how the risk of flooding elsewhere will not be increased. The approved details shall thereafter be implemented prior to the development being brought into use and thereafter managed and maintained for the lifetime of the development.