



Appeal Decision

Site visit made on 6 December 2023

by E Worley BA (Hons) Dip EP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 January 2024

Appeal Ref: APP/K0425/W/23/3318987

The Hatch, Upper Icknield Way, Whiteleaf, Buckinghamshire HP27 0LX

- 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 and Mrs R Minshell against the decision of Buckinghamshire Council.
 - The application Ref 22/08142/FUL, dated 23 November 2022, was refused by notice dated 19 January 2023.
 - The development proposed is the erection of a replacement dwelling and garage with new vehicular access and additional hard and soft landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a replacement dwelling and garage with new vehicular access and additional hard and soft landscaping at The Hatch, Upper Icknield Way, Whiteleaf, Buckinghamshire HP27 0LX in accordance with the terms of the application, Ref 22/08142/FUL, dated 23 November 2022, and the plans submitted with it, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. Since the appeal was lodged, a revised National Planning Policy Framework (the Framework) has been published. Both parties have had an opportunity to comment on the revised Framework and so have not been prejudiced by this change. I have thus had regard to the latest version of the Framework in determining this appeal.
3. On 22 November 2023, all areas in England and Wales designated as an Area of Outstanding Natural Beauty (AONB) were retitled National Landscapes. There has been no change to the legal designation and policy status of these areas. For the avoidance of doubt, I have used the term AONB which remains in the latest version of the Framework.

Main Issues

4. The main issues are:
 - whether the proposed development is inappropriate development in the Green Belt having regard to the Framework and relevant development plan policies;
 - the effect of the proposed development on the openness of the Green Belt;

- the effect of the proposed development on the character and appearance of the area, having specific regard to the Chilterns Area of Outstanding Natural Beauty; and
- whether the harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations, so as to amount to very special circumstances necessary to justify the development.

Reasons

Whether inappropriate development in the Green Belt

5. The Hatch is a detached 2 storey dwelling of a traditional hipped roof design with 2 single storey garages to the side. The dwelling sits on a generous plot, where the ground levels slope gently away from the front boundary with Upper Icknield Way towards the rear boundary of the site. The proposal seeks to demolish the existing dwelling and garages and replace them with a new dwelling of a contemporary design and a detached garage.
6. The 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. Paragraph 154 of the Framework states that the construction of new buildings in the Green Belt should be regarded as inappropriate subject to specified exceptions. One such exception is the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.
7. Policy DM43 of the Wycombe District Local Plan adopted 2019 (LP) allows the replacement of a dwelling in the Green Belt where at least one of a list of specific criteria are met, including that, where the volume of the original dwelling is between 240 and 720 cubic metres, as in the case of the appeal proposal, the total volume of the resulting building is no more than the volume of the original building plus 50%. Development will also be required to respect the open character of the Green Belt and appear proportionate to the original dwelling, taking particular account of visual impact.
8. With regards to the Framework, the appeal proposal would be the same use as the existing. I note the Council's contention that the volume of the new dwelling would exceed the maximum volume permissible by Policy DM43 of the LP. However, whilst the Council has provided an indication of the volume of the existing and proposed buildings, it has not been demonstrated how the figures have been derived.
9. The appellants' submissions, however, set out precisely which parts of the existing and proposed buildings have been considered, having regard to the sloping nature of the site. Moreover, the calculations confirm that the internal area above the existing ground level, directly beneath the upper ground level dressing room and bathroom, which is visible externally, is included within the overall volume of the proposed dwelling. The area below the existing ground level, which comprises solely of fill material below the existing slope of the land and is within the ground, is excluded.
10. I have therefore used the appellants' figures as they clearly explain as to how the volume of both the existing and proposed buildings have been calculated. As such, based on the evidence provided, the overall size of the proposed dwelling would not exceed the volume of the existing building by more than

50%. In addition, while the proposed dwelling would be greater in volume and width than the existing dwelling, it would be significantly lower in height overall and therefore have a lesser presence. As such it would appear proportionate to the original dwelling.

11. For the reasons set out above the proposal would not constitute inappropriate development in the Green Belt and in that regard would accord with Policy DM43 of the LP and the provisions of the Framework.

Character and appearance

12. The appeal site lies within the Chilterns Area of Outstanding Natural Beauty (AONB). It sits within a group of residential properties of varied architectural styles and external materials. As with the nearby residential development The Hatch occupies a spacious plot with mature landscaping, which contributes to the verdant and open character of the surrounding area.
13. The proposed dwelling would be lower in height than the existing dwelling and the adjoining residential properties. Despite the width of the front elevation, the footprint of the dwelling is such that space would be maintained between the flank elevations and the side boundaries of the site. As such, it would not appear unduly cramped or at odds with the layout or spacious character of the surrounding development.
14. The proposed dwelling would be contemporary in design. However, given the broad range of dwelling styles and ages along Upper Icknield Way, comprising both traditional and more modern designs, it would not be an incongruous feature in terms of its form and appearance. The design, including external materials comprising vertical timber cladding and glazing, would further complement the different styles evident within the area. Furthermore, due to its low profile, and position set back from the highway, the dwelling would not be an unduly dominant feature in the street scene.
15. The flat roof design of the proposed detached garage and the use of timber cladding in its construction would reflect other detached outbuildings in the vicinity. Whilst it would be sited between the main dwelling and the highway, the proposed detached garage would be set back from the road. Moreover, due to the surrounding ground levels and overall scale and height of the garage, it would not be a prominent or anomalous feature when viewed from the highway.
16. Paragraph 182 of the Framework explains that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and AONBs which have the highest status of protection in relation to these issues. Policy DM30 of the LP requires development in the AONB, among other things, to conserve, and where possible enhance, the natural beauty of the AONB and to be of the highest quality design which respects the natural beauty and built heritage of the Chilterns and enhances the sense of place and local character.
17. The appeal site is not visually prominent in the wider landscape. Moreover, it has a close relationship to the existing residential development that fronts the highway along this part of Upper Icknield Way. Given that the proposal would be viewed in the context of these nearby residential properties and would not be a discordant feature in terms of scale, design and appearance,

notwithstanding the proposed alterations to the site levels, there would be no tangible harm to the visual qualities and essential characteristics of the AONB.

18. I therefore conclude that the proposed development would not harm the character and appearance of the area and would conserve the landscape and scenic beauty of the AONB. In that regard it would accord with LP Policy DM30 and the high quality design aims of Policy DM35 of the LP. The proposal would also accord with the aims and objectives of the Framework in respect of achieving well designed places and conserving AONBs.

Other Matters

19. Any noise and disturbance associated with construction would be for a temporary period only and could be controlled with a suitable planning condition relating to hours of work.

Conditions

20. I have considered the conditions put forward by the Council in light of the requirements of the Planning Practice Guidance (PPG) and the Framework. Where I agree the conditions are necessary, I have amended the wording, in the interests of precision and clarity, and to comply with advice in the PPG. In addition to the standard timescale condition, I have imposed a condition specifying the relevant plans to provide certainty, the drawings also include details of materials to be used and finished floor levels. Whether the roof is to be constructed using either slate or zinc, this would make little difference to the acceptability of the dwelling.
21. The Council has suggested a condition to remove permitted development rights under Class A of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO). The Framework advises that conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. Bearing in mind the limitations of the GPDO in terms of size and position of development permitted, I have not been presented with any compelling evidence that the site circumstances are such to justify the removal of these permitted development rights to safeguard the living conditions of the occupiers of the adjoining properties or the character of the area.
22. I have imposed a condition relating to water efficiency to address issues of water stress in the district, in accordance with Policy DM41 of the LP. A condition to require a surface water drainage strategy is also necessary to ensure the development does not exacerbate flooding in accordance with Policy DM39 of the LP. To ensure the proposal protects the natural and visual qualities of the site, a condition is imposed that requires tree protection measures. Conditions are also necessary to secure details of soft landscaping, to ensure a satisfactory appearance to the development.
23. The installation of electric vehicle charging points is covered by the Building Regulations and so a condition in that respect is not necessary. In the interests of highway safety conditions are necessary to secure the provision of parking to serve the development, means of access and the closure of the existing access.
24. To ensure the development would maximise provision towards net gains in biodiversity, in accordance with advice in the Framework, a condition is reasonable and necessary to secure details of the proposed green sedum roof

to the garage. The Council's suggested list of requirements, which is overly prescriptive, is not included in order to allow the parties to agree details.

25. A Preliminary bat roost assessment dated 14 June 2022 by Chase Ecological Consultancy, together with a subsequent Emergence Survey Report – Bats conclude that the proposal would not have an adverse effect on bats, subject to appropriate mitigation measures. A condition to secure the development is carried out in accordance with the recommendations therein, including biodiversity net gain features, is therefore necessary.
26. As the development would affect a protected species a mitigation licence would be required for the works. I have had regard to my duties under Regulations 9(1) and 9(3) of The Conservation of Habitats and Species Regulations 2017 (as amended) (the regulations) and having considered the three tests in the light of the proposed mitigation I have no reason to doubt that a mitigation licence would not be issued. There is no particular evidence that the mitigation proposed would not be effective and could not be secured by conditions. Moreover, given that a licence is required for the works, in accordance with the regulations, a condition to require the licence prior to the commencement of development is not necessary.
27. My conditions in respect of ecology and trees require the protection of various features and mitigation measures. The wording of the conditions ensures compliance with the various measures required. In this context it is not necessary to have a separate condition requiring the appointment of a specific person to monitor the works.
28. To protect the living conditions of the occupants of the surrounding dwellings during the construction phase, it is reasonable and necessary to impose a condition limiting the hours when work can take place as well as deliveries associated with the construction of the development. Given the scale of the development, for a single dwelling, and the absence of any particular site constraints, a condition to secure a Construction Management Plan is not necessary.

Conclusion

29. For the reasons given, I conclude that the appeal should be allowed, subject to conditions.

E Worley

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: 2615 - PL300, 2615 - PL302, 2615 - PL303 Rev B, 2615 - PL304 Rev B, 2615 - PL305 Rev B, 2615 - PL306 Rev A, 2615 - PL307, 2615 - PL309, 2615 - PL311 Rev B, 2615 - PL312 and 2615 - PL313.
- 3) The development hereby permitted shall be designed and constructed to meet a water efficiency standard of 110 litres per head per day and shall be retained as such thereafter in perpetuity.
- 4) Prior to the first occupation of the development hereby approved a scheme for the disposal of surface water (including surface water from the access/driveway), by means of a sustainable drainage system shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be fully implemented prior to the occupation of the development and permanently retained thereafter.
- 5) No site clearance, preparatory work or development shall take place until the protective fencing and/or other protective measures have been erected around trees and hedges to be retained in accordance with the tree protection plan prepared by GHA trees dated June 2022 in accordance with British Standard 5837:2012. All measures shall be retained in place until the completion of the construction works.
- 6) Prior to the first occupation of the dwelling hereby permitted space shall be laid out within the site in accordance with drawing no. 2615 - PL302 for the parking of vehicles and for vehicles to turn so that they may enter and leave the site in a forward gear. That space shall thereafter be always kept available for the parking of vehicles.
- 7) Prior to the first occupation of the dwelling hereby permitted the new means of access to the site shall be laid out in accordance with the approved drawing and constructed in accordance with the Buckinghamshire Council guide note "Private Vehicular Access Within the Public Highway". The means of access shall be retained as such thereafter in perpetuity.
- 8) Prior to the first occupation of the dwelling hereby permitted visibility splays shall be provided on both sides of the access between a point 2.4 metres along the centre line of the access measured from the edge of the carriageway and a point 43 metres along the edge of the carriageway measured from the intersection of the centre line of the access. The area contained within the splays shall be kept free of any obstruction exceeding 0.6 metres in height above the nearside channel level of the carriageway thereafter in perpetuity.
- 9) Within one month of the new access being brought into use the existing access to the site from Upper Icknield Way shall be stopped up by raising the existing dropped kerb and reinstating the highway boundary to the same line, level and detail as the adjoining highway boundary.

- 10) Prior to the first occupation of the dwelling hereby permitted a scheme of soft landscaping works shall be submitted to and approved in writing by the local planning authority. The scheme shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants noting species, plant supply sizes and proposed numbers/densities where appropriate.
- 11) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the dwelling or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 12) Prior to any development above slab level, details of the sedum roof to the detached garage hereby approved shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in strict accordance with the approved details and shall be maintained as such thereafter in perpetuity. The roof of the garage shall not be used as an amenity or sitting out space of any kind whatsoever and shall only be accessed for essential maintenance or repair work.
- 13) The development hereby permitted shall be carried out in strict accordance with Appendix 1: Mitigation, Enhancement & Protection and Biodiversity measures set out in the Emergence Survey Report – Bats (reference CE3049-02) prepared by Chase Ecological Consultancy. The biodiversity net gain features set out in Appendix 2 therein shall be fully implemented prior to the first occupation of the dwelling and shall be retained in perpetuity.
- 14) Demolition, clearance or construction work and deliveries to and from the site in connection with the development hereby approved shall take place only between 08:00 and 18:00 hours on Monday to Friday and between 08:00 and 13:00 on Saturdays and shall not take place at any time on Sundays or Bank or Public Holidays.

*****end of conditions*****