



Appeal Decisions

Site visit made on 16 November 2023

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 January 2024

Appeal A Ref: APP/X0415/W/23/3319006

Sovereign Heights, First Avenue, and land to the rear of 37-47 Chequers Hill, Amersham, Buckinghamshire HP7 9BL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Orchid Investments against Buckinghamshire Council.
 - The application Ref PL/22/1756/FA, is dated 16 May 2022.
 - The development proposed is described as 'demolition of existing Sovereign Heights property and provision of 8 two-storey semi-detached (2 bedrooms) on land combined with rear of plots 37- 47 Chequers Hill'.
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Appeal B Ref: APP/X0415/W/23/3323424

Sovereign Heights, First Avenue, and land to the rear of 37-47 Chequers Hill, Amersham, Buckinghamshire HP7 9BL

- 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 Orchid Investments against the decision of Buckinghamshire Council.
 - The application Ref PL/22/3943/FA, dated 10 November 2022 was refused by notice dated 30 March 2023.
 - The development proposed is described as 'demolition of existing Sovereign Heights property and provision of 6 two storey detached dwellings on land combined with rear of plots 37- 47 Chequers Hill'.
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Decision

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Preliminary Matters

3. The address of the appeal site used in the banner headings above is taken from the Council's correspondence as well as the appeal forms. This includes reference to land to the rear of properties on Chequers Lane and more accurately describes the location of the appeal site. The descriptions of development are taken from the application forms.
4. Additional information regarding the ecological effects of the proposals have been submitted with the appeal. As a consequence, the Council has confirmed that it effectively withdraws the second reason for refusal for Appeal B. As this is no longer a matter in dispute between the main parties I have not dealt with it as a main issue of the appeals.

5. During the course of the appeal the revised National Planning Policy Framework (the Framework) was published. The main parties have had the opportunity to comment on the implications of this change and I have taken the responses received into account.

Main Issues

6. Based on the evidence before me the main issues for both appeals are:
- effects on the Chiltern Beechwood Special Area of Conservation (SAC), and;
 - effects on the living conditions of the occupiers of neighbouring properties, with particular regard to the outlook and privacy of the occupants of 37- 47 Chequers Hill and 1 Stanley Hill.
7. In addition, the following main issues are also applicable to Appeal A:
- effects on the character and appearance of the area, and;
 - effects of the proposal on the living conditions of occupiers of Moreton House and 25 West Acres, with particular regard to disturbance.

Reasons

Chiltern Beechwood SAC

8. The appeal site is within the zone of influence of the Chiltern Beechwood SAC, which comprises nine constituent Sites of Special Scientific Interest (SSSIs). This is an internationally recognised designated site with habitats and species of significant ecological importance.
9. Natural England have advised the Council that there could be serious potential conflict between plans for housing development in the area around the Chiltern Beechwood SAC and the conservation objectives for its protected features. This could arise in particular from additional recreational pressures from further public access and disturbance. Both appeal schemes would introduce new housing and residents into the zone of influence, who may visit the SAC for recreational purposes. As such, and adopting the necessary precautionary approach, possible significant effects on the qualifying features of the SAC cannot be ruled out for either appeal scheme.
10. The main parties agree that mitigation for the proposals would therefore be required. The Council report that it is developing mitigation measures comprising a Strategic Access Management and Monitoring Strategy (SAMMS) and Suitable Alternative Natural Greenspace (SANG). Together these form the agreed Strategic Solution with Natural England.
11. However, work on the mitigation strategy as a whole is not complete. A position has been agreed for a financial contribution per new dwelling towards the SAMMS, to finance projects that address the improvements required to restore damage caused by recreational disturbance at the SAC. However, a contribution towards a SANG would also be required, to divert recreational pressures away from the SAC. At this time the Council cannot identify with certainty any sites which could provide a SANG and which, accordingly, would mitigate for the effects of the developments.
12. In acknowledging the Council's progress on these matters and the likelihood of the mitigation entailing financial contributions, the appellant has suggested a

Grampian style planning condition be applied to secure a legal agreement. However, given the uncertainty surrounding the mitigation measures, particularly as alternative green spaces are not yet agreed and there is uncertainty surrounding their timescales, I cannot be certain that those contributions would be effective in mitigating adverse effects on the SAC. I am also mindful that Planning Practice Guidance advises that such a condition should only be used in exceptional circumstances. While housing delivery within the zone of influence is likely to be affected, given the limited evidence on this matter it cannot be established that exceptional circumstances apply here.

13. Overall, for the reasons given, it cannot be established with the necessary level of certainty that the proposals would not adversely affect the integrity of the SAC. Both Appeal A and Appeal B would conflict with Policy CS24 of the Core Strategy for Chiltern District 2011 (the CS) and paragraph 186 of the Framework which seek to protect habitats of international importance and prevent significant harm to biodiversity from development, as well as the Habitats Regulations.

Living Conditions- Privacy and Outlook

14. Properties to the south of the appeal site on Chequers Hill and no.1 Stanley Hill benefit from long gardens which rise in height to the north. These give a significant distance of separation to the nearest houses to the north and accordingly give a high level of privacy and largely uninterrupted outlook from the rear facing windows of those properties. The appeal schemes would undoubtedly change the conditions experienced by occupants of those properties through introducing two storey dwellings to the site including new rear facing windows and raised outdoor spaces, as well as associated boundary treatments dividing the land.
15. The distance between the closest proposed houses and those on Chequers Hill would be similar in both Appeals A and B. Even if the Council's lesser measurement were used, there would be approximately 25 metres between the rear elevations of no.37 to 47 Chequers Hill and the rear facing windows of the new houses. Even where some of the properties on Chequers Hill have been extended to the rear, the distances between the buildings would be sufficient to retain an acceptable standard of privacy for those houses.
16. The raised terraces proposed as part of Appeal B would provide additional opportunities for future occupants to experience views towards the south. However, the depths of those terraces would be limited and they would be unlikely to have greater effects on privacy than the proposed rear windows. A scheme of landscaping and appropriate boundary treatments would also assist in reducing perceived effects on privacy.
17. In terms of outlook, the proposals would appear prominent in views from the rear windows of properties on Chequers Hill due to their elevated position on the hillside. While there would be a notable change to their outlook away from the existing conditions, given the distances involved this would not amount to unacceptable harm and would not impair the living conditions to a significant degree. The effects of Appeal B on outlook would be less than Appeal A due to the gaps between the proposed buildings, which would provide visual relief. However I do not find either appeal would create unacceptable living conditions in terms of outlook.

18. The effects of the developments would also be apparent from the gardens of the surrounding properties. Given there is a lesser degree of privacy within these gardens due to intervisibility with neighbouring properties and gardens, I do not find the effects on the privacy of the gardens to be harmful. Neither would the change in the sense of enclosure experienced from those gardens necessarily be harmful to the living conditions of their occupants, given the distances involved. The appellant has drawn my attention to other back-land developments in the surrounding area, where a similar relationship between the gardens exists, in particular those on Hillside Gardens and Stanley Hill to the east, and I have no reason to believe this is not a satisfactory arrangement.
19. A lesser distance would exist between the most eastern proposed house of both Appeal schemes and the back of 1 Stanley Hill, which neighbours the site to the east. Here any intervisibility would be at oblique angles and would be interrupted by landscaping and boundary treatments. While both Appeal A and Appeal B would be apparent and visible from 1 Stanley Hill, for these reasons their effects would not be harmful to the overall living conditions of its occupants in terms of both outlook and privacy. In the case of Appeal A, where the proposed development would be closer to 1 Stanley Hill, the nearest new window would also be limited to a high level opening, further reducing opportunities for overlooking.
20. The Council have not raised concerns for the effects of the proposed buildings on those other nearby properties, including those others on Chequers Hill, Stanley Hill and West Acres. Again, while the new buildings would be visible from those properties, given the distances between them, the effects would not amount to unacceptable harm. I also note that conditions could be used to control windows in the side walls of the developments to limit opportunities for overlooking if the appeals were otherwise allowed. Given the distance from neighbouring properties and their orientation, and in the absence of evidence to the contrary, there would not be a harmful loss of sunlight or daylight to the adjoining properties.
21. For the reasons given, both Appeal A and Appeal B would have acceptable effects on the living conditions of occupants of 37- 47 Chequers Hill and 1 Stanley Hill, and their amenities overall would be protected. The proposal would comply with Policy GC3 of the Chiltern District Local Plan 1997 including alterations of 2001 (the LP), which seeks to protect amenities enjoyed by occupants of existing adjoining and neighbouring properties, and resists development where amenities are impaired to a significant degree, as well as the objectives of the Framework insofar as it relates to healthy living conditions and high standards of amenity.

Character and Appearance (Appeal A only)

22. The surrounding area displays a variety of housing typologies including detached and semi-detached houses of varying design and appearance set within generous plots, as well as groups of terraced properties of more consistent appearance surrounding West Acres. There is, however, some consistency in the scale of properties in the area, generally comprising two storeys with traditional pitched roofs.
23. Appeal A would create a row of two storey semi-detached properties of traditional design and detailing including pitched roofs, decorative gable

features and projecting bays. While these may not directly replicate any observed in the immediate area, they would nonetheless appear as a visually distinct group of properties given their position behind the building line and distance from First Avenue. As a result of their scale and position they would sit comfortably within this context and would adequately respect those attributes of the surrounding area which contribute positively to its character.

24. The supporting plans show that opportunities for soft landscaping would exist between the parking areas which would assist in softening their appearance and dividing areas of hard surfacing. The proposed planting around the outside of the site would also assist in screening much of the parking in longer views from the surrounding area. The parking areas would not be significantly at odds with the arrangements of other properties in the area and I find its visual effects would be acceptable subject to landscaping which could otherwise be secured by condition.
25. The Council have not raised objection to the principle of this back land development. Given the varied layout of streets and orientation of properties in the wider area, which similarly includes some development behind the main building line, I have no strong reason to reach a different view.
26. For these reasons, Appeal A would be acceptable in terms of its effects on the character and appearance of the area. It would comply with policies GC1 and H3 of the LP, Policy CS20 of the CS and the objectives of the Framework insofar as they relate to the need for high quality design which is compatible with the character of the area.

Living Conditions- Disturbance (Appeal A only)

27. Moreton House and 25 West Acres would directly adjoin the proposed access road and would experience the effects of vehicles and pedestrians using this route, which may be seen or heard from those properties. I note the comments of the Council's Highways Officer regarding the likely number of daily vehicle movements associated with the development. However there is not substantive evidence to suggest that those effects would cause unacceptable harm to living conditions and appropriate landscaping, including tree retention and boundary treatments, could reasonably be secured which would further reduce the effects of the new access. The proposal would be compliant with Policy GC3 of the LP in this regard.

Other Matters

28. The Council accept that it cannot demonstrate a five year land supply for housing and therefore paragraph 11d) of the Framework is relevant to the appeal. However, as the application of policies in the Framework which protect habitat sites provide a clear reason for refusing the developments proposed, neither appeal would benefit from the presumption in favour of sustainable development.
29. The benefit of housing nonetheless weighs in favour of the proposed development, particularly given the very significant undersupply of homes in the area. These would be family homes within an existing built-up area with good accessibility to existing services and facilities, including public transport. The homes could be built out relatively quickly and create some economic benefits through the construction process and ongoing expenditure by future occupants into the local economy. However, these benefits would not outweigh

the conflict identified with the development plan and the Framework arising from the impacts on the SAC, which could be significant and long lasting, and to which I ascribe substantial weight.

30. Despite the age of the CS, I do not find the relevant aspects of Policy CS24 to be inconsistent with the Framework and, based on the evidence before me, I do not consider the conflict with that policy should attract limited weight. I have considered the appeal decision presented by the appellant¹, and find the circumstances and considerations under that appeal to be notably different to the appeal schemes before me.

Conclusion

31. Although the proposal would comply with parts of the development plan, the conflict is such that the proposals should be regarded as being in conflict with the development plan, when read as a whole. There are no material considerations, including approaches of the Framework, of sufficient weight, that would indicate a decision other than in accordance with it. Both Appeal A and Appeal B are therefore dismissed.

C Shearing

INSPECTOR

¹ APP/X0415/W/22/3303868