



Appeal Decision

Site visit made on 16 February 2024

by E Catcheside BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th March 2024

Appeal Ref: APP/A1910/W/23/3329143

Land Rear of 49-53 High Street, Northchurch, Hertfordshire HP4 3QH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of planning permission.
 - The appeal is made by Mr Nick Herbert (Queenswood Homes) against the decision of Dacorum Borough Council.
 - The application Ref 22/02315/DRC is dated 19 July 2022.
 - The application sought the approval of details reserved by condition 15 of planning permission Ref 20/02653/ROC, granted on 22 October 2020 for the demolition of all existing buildings, improvements to existing access, construction of four 3-bed and six 2-bed cottages with associated car parking and access road with waste and cycle storage.
 - The details in dispute relate to condition 15 which states that: *No development shall take place until a detailed scheme for the offsite highway improvement works as indicated on drawing 16 2422-1 Revision E (Site & Location Plans) have been submitted to and approved in writing by the Local Planning Authority.*
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Decision

1. The appeal is allowed and the details reserved by condition 15 attached to planning permission Ref. 20/02653/ROC (demolition of all existing buildings, improvements to existing access, construction of four 3-bed and six 2-bed cottages with associated car parking and access road with waste and cycle storage) at Land Rear of 49-53 High Street, Northchurch, Hertfordshire HP4 3QH granted on 22 October 2020 are granted, in accordance with application 22/02315/DRC, dated 19 July 2022, and plan no. TL-4600-22-DOC4.

Preliminary Matters

2. The appellant originally submitted plan no. TL-4600-22-DOC4 with the application. However, during the lifetime of the application and to address concerns raised by the Council, an alternative plan no. TL-4600-22-DOC4 (Rev A) was submitted. In its Officer's Report, the Council states its position is that each of the submitted plans are unacceptable.
3. In its statement, the appellant has requested that I consider the appeal on the basis of the details shown on the original plan no. TL-4600-22-DOC4. Given that the Council has had the opportunity to comment on the appellant's statement as part of the appeal process, and the Officer's Report sets out the Council's position on both submitted plans, I am satisfied that no prejudice is caused in me considering the appeal on the basis of the originally submitted

plan. However, I have had regard to both submitted plans, and the parties' views on each of them, in my consideration of the appeal.

4. On my site visit, I observed that the development has commenced. Ten dwellings have been erected at the site and, from my observations, at least some of those dwellings are occupied. I have determined the appeal on the basis of the submitted evidence and my observations of the site and surroundings.
5. The National Planning Policy Framework (the Framework) was revised in December 2023. As the changes do not materially affect the main issues in this case, the parties have not been invited to make further comments.

Background and Main Issues

6. Planning permission was granted in October 2020 for ten dwellings with car parking and access from High Street. The planning permission included condition 15, which is worded as a pre-commencement condition, requiring the submission and approval of a detailed scheme of offsite highway works. The delivery of the offsite highway works is controlled by condition 16 of the planning permission, which requires the works to be completed prior to the first occupation of the development and retained in perpetuity thereafter.
7. The wording of condition 15 stipulates that the details to be submitted must be in accordance with those shown on drawing 16 2422-1 Revision E (Site & Location Plans), which, amongst other things, indicates a 'possible pedestrian crossing position (subject to highways design)' connecting the site with the footpath on the other side of High Street. The reason given for the condition is: "In order to ensure a safe and satisfactory means of access for pedestrians in accordance with Policy CS12 of the Dacorum Core Strategy (2013)."
8. The Council's reasons for refusal refer to pedestrian safety as well as the lack of appropriate mitigation for the Chiltern Beechwoods Special Area of Conservation (SAC). Therefore, the main issues are:
 - whether the details of the proposed offsite highway works are acceptable, with particular regard to pedestrian safety; and
 - the effect of the development on the integrity of the Chiltern Beechwoods SAC.

Reasons

Pedestrian safety

9. The appeal site is located to the rear of 49-53 High Street on the southwest side of the road and is accessed from High Street via Northchurch Place. There is a footpath on the northeastern side of High Street, which provides access to the services and facilities in Northchurch and Berkhamsted, as well as to existing pedestrian crossing points. However, other than a short section of footway connecting the site to 55 and 57 High Street, there is no footpath to the appeal site.
10. High Street is a busy road with a steady flow of traffic in both directions. From my own observations, the footpath along the northeastern edge of High Street is also well-used.

11. The offsite highway works shown on submitted drawing TL-4600-22-DOC4 comprise an uncontrolled pedestrian crossing, connecting the appeal site with the footpath on the other side of High Street. The pedestrian crossing would be sited in a similar location to that shown on approved drawing 16 2422-1 Revision E and would link to an on-site footway that would be provided between 49 and 51 High Street. The pedestrian crossing would be marked by buff tactile paving and a dropped kerb on either side of the road.
12. The proposed pedestrian crossing would be an improvement on the existing situation, whereby pedestrians access the site via the vehicular carriageway on Northfield Place. Consequently, pedestrians are required to navigate multiple hazards, including vehicles travelling within the appeal site as well as along High Street. Moreover, the addition of a connecting footway between High Street and the dwellings would provide dedicated space for pedestrians to seek refuge from passing vehicles whilst waiting to cross the road. It would, therefore, have a positive effect on the safety of pedestrians travelling to and from the site.
13. I acknowledge the Council's position that a formal crossing would provide a greater level of safety for pedestrians than an uncontrolled crossing. However, the evidence shows that, without access to third party land, the delivery of a Belisha beacon on the northeastern side of High Street would partially block the existing well-used footpath and, consequently, would impede the safe and free movement of pedestrians along High Street. This would cause unacceptable adverse implications for pedestrian safety and convenience. Given these circumstances, it is the view of the Highway Authority that an uncontrolled crossing would be the preferred option for a pedestrian crossing in the proposed location. Based on the evidence, and my own observations of the site and surroundings, an uncontrolled crossing would be the only feasible option for discharging condition 15 in the indicative location shown on approved drawing 16 2422-1 Revision E.
14. I have had regard to the Council's suggestion that pedestrian access to the site could be provided in a different location to that shown on approved drawing 16 2422-1 Revision E or, alternatively, that a traffic island within High Street could be provided. However, in the absence of any substantive evidence to the contrary, I am not persuaded that there are any reasonable alternative options that could be delivered without some requirement for third party land. Consequently, there would be limited certainty over delivery, and, for that reason, I do not consider them to be viable alternatives.
15. Taking all of the above into account, I conclude that the details of the proposed offsite highway works are acceptable, with particular regard to pedestrian safety. Accordingly, there would be no conflict with Policies CS8 and CS12 of the Core Strategy 2006-2031 (adopted 25 September 2013) (CS) and Saved Policy 51 of the Dacorum Borough Local Plan 1991-2011 (adopted 21 April 2004) which, taken together and amongst other things, expect development to provide a safe and satisfactory means of access for all users, and to create safer and continuous footpath networks and routes and facilities for pedestrians.

Chilterns Beechwoods SAC

16. The site lies within the zone of influence of the Chilterns Beechwoods SAC, which is primarily designated for its beech forests on neutral to rich soils, dry

grasslands and scrublands on chalk or limestone, and its population of Stag Beetles. The pathways of impact on the SAC are the effects of urbanisation, with a particular focus on disturbance from recreational activities arising from new residents and domestic animals. The conservation objectives are to ensure the integrity of the site is maintained and restored.

17. The Chiltern Beechwoods Special Area of Conservation: Mitigation Strategy for Ashridge Commons and Woods Site of Special Scientific Interest (V1 dated 15 November 2022) (Mitigation Strategy) states that applications for the discharge of conditions will be subject to screening for a Habitats Regulations Assessment if the affected development has not already been subject to this process at an earlier stage and/or suitable mitigation or avoidance measures have not been secured. The Mitigation Strategy also states that this will normally apply to permissions granted prior to 14 March 2022, which includes the appeal development.
18. The Mitigation Strategy states that, when considering applications for the discharge of planning conditions, it will be necessary to undertake an exercise to determine if the condition “goes to the heart of the planning permission”. This means determining if the condition is an implementing condition where the details are fundamental to the acceptability of the site.
19. The principle of a pedestrian crossing to the appeal site was established at the time the planning permission was granted for ten dwellings with car parking and access from High Street. Indeed, its indicative position is shown on approved drawing 16 2422-1 Revision E. Condition 15, which is the subject of this appeal, relates only to the submission and approval of technical details for the pedestrian crossing which would comprise very minor works including dropped kerbs and tactile paving. Consequently, condition 15 is not an implementing condition that is fundamental to the acceptability of the site.
20. It is unlikely that there would be a material increase in recreational pressure on the SAC arising from the approval of details pursuant to condition 15 either alone or in-combination with other plans and projects. Therefore, it would not undermine the conservation objectives for the SAC. Consequently, an Appropriate Assessment is not required, and it would not be reasonable to secure mitigation in respect of the effects on the SAC.
21. I conclude that the proposal would not be likely to cause significant adverse effects on the Chiltern Beechwoods SAC either alone or in-combination with other plans or projects. Therefore, there would be no conflict with Policy CS26 of the CS which, amongst other things, seeks to conserve and restore habitats and species and to strengthen biodiversity corridors.

Conclusion

22. For the reasons given above, I conclude that the appeal should be allowed.

E Catchside

INSPECTOR