



---

# Appeal Decision

Site visit made on 28 March 2024

**by Laura Cuthbert BA(Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 24 May 2024**

---

**Appeal Ref: APP/J0350/W/23/3330713**

**Chiltern House, 337 Bath Road, Slough SL1 5PR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by BMR London Ltd against the decision of Slough Borough Council.
  - The application Ref is P/02069/020.
  - The development proposed is single storey roof extension to provide 4x self-contained units with associated refuse and cycle storage.
- 

## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. Since the appeal was made, a revised National Planning Policy Framework (the Framework) was published on 19 December 2023. I have taken the revised Framework into account as part of the determination of this appeal.
3. This appeal, which affects Chiltern House itself, was submitted alongside another appeal<sup>1</sup> that proposes 3 dwellings to the land to the rear of Chiltern House. Whilst the red line boundaries are the same, there are significant differences between the proposals, and they were refused on different grounds. Therefore, I consider it appropriate to write two separate decisions.
4. Amended plans were submitted during the determination of the planning application. However, I note that the application was determined on the original plans submitted, and the amended plans do not appear to have been subject to any formal public consultation. I note from the correspondence with the Council when the amended plans were sent to them on 4 August 2022 that the Council stated that any amended plans would be 'an informal review and not, in the first stage, submitted as formal amendments'. The amended plans would involve a substantial difference to the proposal. Therefore, having regard to the 'Wheatcroft Principles' established under *Bernard Wheatcroft Ltd v SSE* 1982, which has now been advanced by *Holborn Studios Ltd*<sup>2</sup>, I consider that any interested parties will be prejudiced should I accept the amended plans. Consequently, I have determined the appeal based on the original plans and those upon which the Council made its decision.

## Main Issues

5. There are 4 main issues. These are:

---

<sup>1</sup> APP/J0350/W/23/3330715

<sup>2</sup> *Holborn Studios Ltd v The London Borough of Hackney* [2017] EWHC 2823 (admin)

- the effect of the proposal on the character and appearance of the area;
- the effect of the proposal on the living conditions of the existing occupants of 333 and 335 Bath Road in regard to privacy;
- whether the proposal provides satisfactory living conditions for future residents, in regard to noise from Bath Road; and
- the effect of the proposal on the Burnham Beeches Special Area of Conservation (SAC) and whether the development can deliver net gains in biodiversity.

### *Character and Appearance*

6. Chiltern House is a detached, 3 storey, brick built building with a slate mansard roof situated along Bath Road. Formally an office building, the site benefits from Prior Approval for the change of use from offices (Use Class E) to 13 residential units (Use Class C3)<sup>3</sup>. It is situated in a prominent position to the south of the junction of Bath Road and Burnham Lane signal junction. Whilst there is some variation in height, style and uses along Bath Road, the more consistent building height is of either 2 storey or 2 and a half storey buildings.
7. Due to its substantial scale, mansard roof design, and prominent position, the existing building of Chiltern House is visually dominant along Bath Road. Its massing is accentuated by its extension across the entire width of the plot. It results in an overly dominant building in the streetscene. This is especially as it is seen alongside 339-341 Bath Road, which is of a similar scale and also with a mansard roof design. They are both distinctly different to the predominate character along Bath Road.
8. The proposal, which results in an additional fourth storey and replicates the mansard roof, would exacerbate its incongruity in the area, increasing its scale and prominence in the streetscene to an unacceptable level. The resulting building would be approximately 17.2m high to the top of the stair core, which would be significantly taller than the surrounding buildings along Bath Road. Consequently, it would be harmful to the character and appearance of the area, the effects of which would be emphasised by its prominent position along Bath Road.
9. The inclusion of the roof terrace for external amenity space requires additional structures at roof level in order to accommodate the access stairwell. Whilst the stairwell structure would be set back from the front, due to the overall height of the building, it would be visually prominent as you travel west along Bath Road. It would further exacerbate the overall height and scale of the proposal, to the detriment of the character and appearance of the area.
10. It is acknowledged that the existing 3<sup>rd</sup> storey of Chiltern House is slightly top heavy, with the existing top floor 0.89m higher than the floor below. Whilst the proposal would make the 3<sup>rd</sup> and 4<sup>th</sup> storeys more proportionate to the lower storeys, which would reduce the visual mass of the top level, it would still involve an additional storey, which would increase the overall height of the building by approximately 6.3m, when the stair core is included. Therefore, this would result in a significant and unsympathetic increase in mass and scale, harming the local character.

---

<sup>3</sup> Planning Reference F/02069/017

11. Whilst the façade improvements are acknowledged, including the introduction of windows in both the front and rear facades which would help to break up the existing built form, given the scale and massing of the proposal, any perceived 'softening' would not mitigate the harm to the character and appearance identified. Whilst the use of a mansard roof would reflect the existing style of the building, by virtue of the scale of the proposal, this would not be sufficient to justify the increase in building height. Any 'potential to aid wayfinding' would not convince me otherwise.
12. The arched dormer windows, whilst reflecting the arched nature of the other windows in the building, would add further to the bulk of the proposal. There are other dormers in the area, most notably in the buildings directly opposite the site along Bath Road. However, no application details of these other dormers are before me. Nevertheless, these other dormers serve the roofspace of a 2 storey building, whilst the proposed dormers would serve a 4<sup>th</sup> storey mansard roof. Therefore, they would not be directly comparable to the dormers that would be incorporated into the proposal. I have considered this appeal on its own merits and concluded that it would cause harm for the reasons set out above.
13. It is acknowledged that paragraph 124 e) of the revised Framework states that planning decisions should 'allow mansard roof extensions on suitable properties where their external appearance harmonises with the original building, including extensions to terraces where one or more of the terraced houses already has a mansard. The glossary of the Framework confirms that a Mansard roof 'is generally regarded as a suitable type of roof extension for buildings which are part of a terrace of at least three buildings and at least two stories tall, with a parapet running the entire length of the front façade'. However, it is not considered that the proposal is the type of 'mansard roof extension' supported by the Framework because the proposal would not be consistent with 'the prevailing height and form of neighbouring properties and the overall street scene'.
14. Consequently, I conclude that the proposal would harm the character and appearance of the area. It would be contrary to Policies EN1 and EN2 of the Local Plan for Slough (Local Plan) (adopted 2004) Policy 8 of the Slough Local Development Framework Core Strategy (Core Strategy) (adopted 2008). These policies, in combination, seek to ensure that development proposals are of a high quality design. Development must be compatible with and/or improve their surroundings and proposals for extensions to existing buildings should be compatible with the scale, materials, form, design, fenestration, architectural style, layout and proportions of the original structure. Poor designs which are not in keeping with their surroundings and schemes that overdevelop the site will not be permitted. It would also conflict with the principles within Chapter 12 of the Framework which seek good design sympathetic to the local area.

*Living Conditions of 333 and 335 Bath Road*

15. 335 and 333 Bath Road lie to the east of Chiltern House, with No 335 the immediate neighbour. Both are in residential use, with No 335 having a commercial use at the rear, utilising the yard area and a number of existing outbuildings. There are already 2 existing windows and a door on the eastern elevation of Chiltern House facing towards No 335.

16. Unacceptable overlooking into the rear of Nos 333 and 335 would be possible from the new side windows on the eastern elevation, which would be harmful to the privacy levels currently enjoyed by the occupiers of No 335 and, to a lesser degree, to the privacy of the occupiers of No 333 beyond.
17. However, all of the new windows on the eastern elevation either serve a hallway or are smaller, secondary windows to the living/dining/kitchen areas. Whilst no suggested condition has been provided by the Council, it is clear from its evidence that they are satisfied that they could be conditioned to be obscurely glazed. The appellant is agreeable to such a condition. Therefore, had I been minded to allow the appeal, I am satisfied that a suitably worded condition could be attached which would ensure that the windows on the eastern elevation would be obscure glazed. This would subsequently prevent any unacceptable levels of overlooking and protect the privacy of both surrounding residents.
18. Therefore, subject to a condition to secure the obscure glazing, I conclude that the proposal would not harm the living conditions of the existing occupants of 333 and 335 Bath Road in regard to privacy. It would be in accordance with Policy EN1 of the Local Plan and Core Policy 8 of the Core Strategy, which, in combination, seek to ensure that development proposals are compatible with their surroundings in terms of their relationship to nearby properties, respecting the amenities of adjoining occupiers.
19. The Council also allege conflict with Policy EN2 of the Local Plan. However, this only refers to the 'significant loss of sunlight' or 'significant overshadowing'. It does not make reference to privacy or overlooking. Therefore, any alleged conflict would not be determinative in these circumstances.

*Living conditions of future occupants*

20. Bath Road is a busy two way road, subject to high levels of traffic, and consequently has a level of noise associated with it. An Environmental Noise Survey and Noise Impact Assessment Report<sup>4</sup> concluded that 'the site ambient noise levels are considered to have a low to medium impact'. The 'medium' noise risk is due to road traffic from Bath Road when residential windows are open, resulting in the internal noise levels within living areas likely to have an adverse impact on future occupants. Therefore, there would be a requirement for suitable mitigation measures to minimise the reliance on opening windows for ventilation or cooling purposes.
21. The Council have suggested 2 conditions in order to cover the details of the specific glazing standards and a mechanical ventilation scheme to be submitted prior to any construction work above ground floor slab level. The appellant is agreeable to these conditions. The Council have subsequently confirmed that these conditions would address its concerns in regard to the living conditions of future occupants. I have no evidence before me, nor did I observe anything on site, to warrant coming to a different conclusion on the matter.
22. Therefore, subject to the suggested conditions 6 and 7 as set out in the Council's Statement of Case<sup>5</sup>, I conclude that the proposal would provide satisfactory living conditions for the future occupants, in regard to noise from Bath Road. It would be in accordance with Core Policy 8 and Policy EN1 of the

---

<sup>4</sup> Prepared by Quantum, dated 3 October 2023

<sup>5</sup> Appendix 1: Suggested Conditions of the Council's Statement of Case

Local Plan. These policies, in combination, seek to ensure that development will be of a high quality design that is practical and attractive, and does not give rise to unacceptable levels of pollution including noise.

23. Again, the Council allege conflict with Policy EN2 of the Local Plan. However, this policy does not refer to noise. Therefore, any alleged conflict would not be determinative in these circumstances.

*SAC and Biodiversity Net Gain*

24. The site is approximately 5.4km from the Burnham Beeches Special Area of Conservation (SAC), which is subject to statutory protection under the Conservation of Habitats and Species (Amendment) Regulations 2017 (as amended) (the Regulations). Regulation 61 of the Regulations requires the competent authority to make an appropriate assessment of the implications of a particular proposal, alone or in combination with other plans or projects on any likely significant effect on a European Site designated under the Habitats Directive.
25. The Council is currently working with Natural England to produce a Supplementary Planning Document to support a tariff based mitigation strategy for all new housing applications within 5.6km of the SAC. However, this is yet to be agreed, and therefore each application needs to be considered on its own merits.
26. The appellant has drawn my attention to paragraph 7.169 in the supporting text to Core Policy 9 of the Core Strategy which states that 'any major development that could have an impact upon one of these nearby sites of European importance for nature conservation will be required to carry out an Appropriate Assessment in accordance with the Habitat Regulations'. The Council have 'considered the cumulative effects of the as yet unimplemented prior approval to convert the existing floors'. Together, it would be 17 residential units which would trigger the Appropriate Assessment for a major development. However, the proposal could, in theory, be implemented separately to the consented prior approval scheme. Therefore, in the circumstances of the appeal proposal, it would be unreasonable to consider it together. Consequently, the proposal would be a 'minor' development and an Appropriate Assessment would not be required.
27. The Council has referred me to another appeal decision<sup>6</sup> to support their position. However, I do not have the full details of what was before this Inspector when they made their decision. I have considered this appeal on its own merits, based on the information before me now.
28. The fourth reason for refusal also states that the proposal does not provide a biodiversity net gain. However, I note that the Council's 'Planning Application Report' states that 'biodiversity gains could be secured by condition through potential landscaping and/or the inclusion of bat/bird habitats in the development'. Given that the existing site is hardstanding and that there is ample space to introduce landscaping and/or bat and bird habitats, this could be secured through a suitably worded condition.
29. Therefore, for the reasons set out above, subject to a suitable condition, I conclude that the proposal would be in accordance with Core Policy 9 of the

---

<sup>6</sup> APP/J0350/W/21/3288411

Core Strategy which states that development proposals will not be permitted unless it enhances and preserves natural habitats and the biodiversity of the Borough, including corridors between biodiversity rich features.

30. By virtue of an Appropriate Assessment not being triggered in these circumstances, any alleged conflict with the Framework or the Regulations would not be determinative on this matter.

### **Planning Balance and Conclusion**

31. The main parties agree that following the application of the updated Housing Delivery Test, the Council is unable to demonstrate a five-year supply of deliverable housing sites. Therefore, Paragraph 11 of the Framework is engaged, which states that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, or there are specific policies in the Framework which indicate that development should be restricted.
32. The proposal would make a small contribution towards the provision of housing, consistent with the Government's stated aim in the Framework of significantly boosting the supply of homes. There would also be economic benefits contributing to building a stronger, responsive and competitive economy, supporting growth with construction and post-construction benefits. The proposal would encourage development and associated economic growth with future occupants contributing to the local economy and continued viability of services in the local area. Together these benefits carry moderate weight in favour of the development.
33. However, the proposed development would give rise to harm to the character and appearance of the area. It would lead to conflict with elements of the Framework, specifically where it recognises that planning decisions should ensure that developments are sympathetic to local character, including the surrounding built environment. The harms would be significant and long lasting. It would accordingly attract substantial weight.
34. With the above in mind, it is sufficiently clear that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The appeal scheme would not therefore benefit from the presumption in favour of sustainable development.
35. Therefore, in conclusion, whilst acceptable in some regards, the proposal conflicts with the development plan as a whole and there are no material considerations, including the Framework, which outweigh that conflict. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal is dismissed.

*Laura Cuthbert*

INSPECTOR