



Appeal Decision

Site visit made on 16 July 2024

by Nick Bowden BA(Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd September 2024

Appeal C Ref: APP/X0415/W/23/3334689

90 Broad Street, Chesham, Buckinghamshire HP5 3ED

- 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 Mr A Jain against the decision of Buckinghamshire Council.
 - The application Ref is PL/23/1498/FA.
 - The development proposed is the erection of single-storey one-bedroom one-person self-contained dwelling to the rear of 90 broad street.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. There are three appeals relating to this site. Due to the differing issues raised, appeals A¹ and B² are the subject of separate decision letters.
3. The National Planning Policy Framework (the Framework) was revised in December 2023. I am also aware of the revised consultation draft from July 2024. As the changes do not materially affect the main issues in this case, the parties have not been invited to make further comments. References to paragraph numbers in this decision relate to the December 2023 version of the Framework.

Main Issues

4. The main issues are:
 - a) the effect of the proposed development on the character and appearance of the area,
 - b) whether the proposed development provides satisfactory living conditions for the future occupants with particular regard to the provision of outdoor amenity space, and
 - c) the effect of the proposed development on the integrity of the Beechwoods Special Area of Conservation (SAC).

¹ APP/X0415/W/23/3334687

² APP/X0415/W/23/3334688

Reasons

Character and appearance

5. The appeal site comprises an end terrace property with the ground floor as a (presently vacant) shop unit and flat over the first floor. It forms one of many similar such terraces in the area which are in a mix of uses as houses or shops with flats above. There are examples of more recent modern developments, but these commonly retain a similar style and appearance with frontages incorporating bay windows and front doors directly addressing the street. There are examples of some smaller service structures to the rear of buildings addressing Broad Street, however these, where they exist, are small ancillary structures. The neighbouring Ollie Owl Day Nursery is different to this general pattern of development, nevertheless it still addresses the street, despite being set back from the road. The industrial estate to the rear, off Higham Mead, is in a different context and is a significantly larger area that displays its own character.
6. The proposed dwelling would be formed as a single, large rectangular block to the rear of the property. It would occupy almost the entirety of the rear garden area, would have no frontage to the street and feature a single panel of windows and door on one narrow elevation. The proposal would result in an excessive amount of built form on this plot that would not be in keeping with the pattern of development in the locality. Whilst it would not be readily visible from the street, it would be apparent from surrounding buildings and in any case, would still change the character of the area through the introduction of a new dwelling that does not have direct aspect onto the street. The use of brick as facing materials and the low height of the building do not mitigate this.
7. I therefore conclude that the proposal would represent an overly intensive form of back-land development that would be detrimental to the character and appearance of the area. It would therefore conflict with policy CS20 of the Core Strategy for Chiltern District 2011 (CSC), policies GC1 and H3 of the Chiltern District Local Plan 1997 (CLP), National Design Guide and provisions of the Framework. When read together these policies require development to be in scale with its surroundings relating well in terms of overall dimensions to all features of the townscape or landscape which forms the setting of the site.

Living conditions

8. The proposed dwelling would feature one small area for outdoor amenity space. This would be a total of 6 square metres and be 1.5 metres in depth and this is an assessment on area as opposed to depth, as is required by policy H12 of the CLP. Indeed, this policy prescribes garden depths of 15 metres although in certain circumstances this depth can be reduced. These circumstances where a reduced garden depth may be acceptable include where the site boundary abuts a public bridleway or footpath, an open field, open countryside, a recreation ground or a playing field or if the whole development is contained within an attractive landscaped setting. None of these scenarios apply here. Equally, where average garden lengths in the vicinity of the development site are significantly less than 15 metres, a reduced standard may be acceptable. Although garden depths in the area do appear quite varied, this does not justify a depth of only 1.5 metres which is significantly lower than the expected minimum rear garden depth set out in CLP policy H12. The quality of the space

would also be poor as it would be completely surrounded by walls, fencing and other buildings.

9. Therefore, the proposed development would not provide satisfactory living conditions for the future occupants due to the lack of private outdoor amenity space. It therefore conflicts with CSC policy CS20, CLP policies GC1 and H12, the National Design Guide and provisions of the Framework. These policies support development which promotes health and well-being, with a high standard of amenity for existing and future users.

Effect on SAC

10. The appeal site falls within the 12.6km zone of influence for the Beechwoods SAC which is an important woodland habitat. The SAC is a European Designated Site afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations).
11. Policy NC1 of the CLP and policy CS24 of the CSC seek to protect such sites from harm and any adverse effects from development. Having secured Strategic Access Management and Monitoring (SAMM), the Council are in the process of providing Sustainable Alternative Natural Greenspace (SANG). However, both the SAMM and the SANG need to be in place to provide the appropriate level of mitigation for adverse impacts to the SAC arising from new development.
12. The Court of Justice of the European Union has ruled that the decision maker, when considering the effect that a proposal may have on a European Site, must consider mitigation within the framework of an Appropriate Assessment (AA) rather than at the screening stage³. This responsibility now falls to me within this appeal. Such an assessment is necessary regardless of the status of the policies of the development plan.
13. Paragraph 186 of the Framework states, with regard to habitats sites, that "if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused".
14. The proposal would result in a net increase in the number of dwellings on the appeal site and is therefore likely to increase the number of visitors to the habitats sites. Consequently, despite only one new dwelling being proposed here; the proposal, when combined with other development in the area, is likely to have a significant effect on the integrity of the habitats sites due to greater potential for impacts from increased recreational disturbance.
15. The appellant has not said that they would be unwilling to make the SAMM contribution. However, in the absence of the SANG I am unable to complete the AA favourably and, as such, I must conclude that, following Appropriate Assessment, the proposal would cause harm to the Protected Site. Therefore, the scheme would conflict with Policy NC1 of the CLP and policy CS24 of the CSC. Similarly, it would conflict with those parts of the Framework that seek to protect the natural environment.

³ People over Wind and Sweetman v Coillte Teoranta ECLI:EU:C:2018:244)

Other Matters

16. In reaching my conclusions here, I have had regard to the net increase of one dwelling where the Council is presently unable to demonstrate a five year supply of housing land. I have also considered the location of the site, proximity to town centre, the car free nature of the scheme and the proposed green roof. The matters do weigh in favour of the development. That the development would not have an adverse impact on the occupants of the first floor flat, or any other neighbouring occupants, is a neutral consideration.

Planning Balance and Conclusion

17. The Framework states that the protection of areas or assets of particular importance provides a strong reason for restricting the overall scale, type or distribution of development in the plan area. Such assets include habitat sites such as the Beechwoods SAC.
18. The proposal would offer social, economic, and environmental benefits arising from the provision of one new dwelling, increasing the choice of homes and contributing to the supply of housing land in an area where there is an undersupply. The proximity to town centre, the car free nature of the scheme and the green roof to the proposed dwelling weigh in favour of the proposal. That no harm has been identified in respect of neighbours living conditions or other pertinent matters is a neutral consideration here. Even so, the social, environmental and economic benefits associated with one new dwelling would be modest at best and I have already found that the proposal conflicts with policies GC1, GC3, H3, H12 and NC1 of the CLP and policies CS20 and CS24 of the CSC and the Framework.
19. The Council accepts that it cannot demonstrate a five-year supply of deliverable housing sites. However, as I have found that the development would have an adverse effect on the SAC; paragraph 11(d) of the Framework is triggered. The identified harm to the SAC is a clear reason for refusing the proposed development. As such, the circumstances at paragraph 11(d)(i) of the Framework are engaged and the presumption in favour of granting planning permission does not apply.
20. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. The appeal is dismissed.

Nick Bowden

INSPECTOR