



Appeal Decision

Site visit made on 6 November 2024

by N Teasdale BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 December 2024

Appeal Ref: APP/X0415/W/24/3338826

Bourbon Court, Nightingales Corner, Little Chalfont, Buckinghamshire HP7 9QS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant full planning permission.
 - The appeal is made by Mr Simon Funnell (Lexham Properties Ltd) against the decision of Buckinghamshire Council - East Area (Chiltern).
 - The application Ref is PL/22/1980/FA.
 - The development proposed is demolition of existing office block and redevelopment of site with the erection of a four storey building comprising seven apartments and a two storey building comprising two apartments. Associated parking, bike storage and amenity space.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development in the above banner heading has been taken from the decision notice and appeal form. I understand that the description on the original application form has changed with the appellant confirming this within the appeal form.
3. A screening direction was issued under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations). In exercise of the powers conferred by Regulation 14 (1) and 7 (5) of the EIA Regulations, the Secretary of State directed that the development is not EIA development.

Main Issues

4. The main issues are:
 - The effect of the proposed development on the living conditions of existing occupiers of the adjoining dwellings, Westside and 11 The Hawthorns (No 11) with particular regard to outlook and privacy;
 - The effect of the proposed development on parking in the area; and
 - Whether satisfactory provision for refuse collections can be provided.

Reasons

Living conditions

5. The appeal site relates to Bourbon Court, a three-storey vacant office building set to the rear of a row of commercial premises which line Cokes Lane and Burtons Lane (known as Nightingales Corner). The appeal site is accessed from Burtons Lane to the east and there are a number of trees surrounding the property to the south and west.
6. The proposed development seeks planning permission for the demolition of the existing office block with undercroft parking and the redevelopment of the site by way of the erection of a 4-storey building comprising 7 apartments and a 2-storey building comprising 2 apartments. The proposed development would also include ancillary parking, bike storage and amenity space.
7. The existing commercial building comprises a basement, ground and 1st floor level which allows the property to be read as comprising two sheer storeys. The proposed building would however comprise 3 sheer storeys and a top 4th storey set in from the sides. The buildings fronting Burtons Lane largely comprise 2 storeys with a pitched roof above and whilst there are 3 storey buildings in the vicinity, two storeys with pitched roofs are the predominant form with a maximum of 3 storeys.
8. The overall bulk and scale of the proposed 4 storey building would therefore be noticeably different when viewed in comparison to other residential and commercial buildings which would be exacerbated by its siting to the rear of the road frontages, as normally buildings to the rear are subordinate in scale.
9. The building would be approximately 1.5 metres higher than the lower ridge slope that is visible from the front and from the gardens and habitable room windows of Westside which is a residential property located in close proximity to the southeast. The ground floor element to the front of the existing building is closer to the boundary with Westside but the upper floor levels closest to the boundary comprise the downwards slope of the roof with the remaining built form set further away from the boundary and set back from the frontmost part of the building. The proposed building would have a bulkier vertical emphasis over and above that of the existing whilst also introducing an additional storey at 3rd floor level. As a result, the proposed building would be unduly obtrusive when viewed from Westside with its sheer form appearing at odds with the existing character. The large areas of glazing and a high level of roof terraces would further exacerbate its obtrusiveness.
10. The screening that exists to the south would continue to help filter some views of the appeal site from Westside and I acknowledge additional landscaping measures. Nonetheless, the appeal site would still be highly visible which would be even more visible outside of the summer months when trees are not in leaf, and I am mindful not to place an overreliance on the long-term protection of the trees.
11. I appreciate the appellants' claims regarding the height, footprint, width, length, and orientation of the building along with its proximity to Westside in comparison to the existing building. Even so, the overall configuration/form of the proposed building is different including its roof form, elevation detailing and storeys which would add more bulk and scale to the building. This would make it a more dominant form of development over and above that of the existing.

12. Additionally, the height of the proposed building may meet the existing ridge at its maximum point but the remainder of the existing roof slopes away. The majority of the height of the proposed third-floor level would exceed that of the current building given its overall roof configuration as evidenced on the South East Site Elevation Plan 21082-PE0014 adding to its overall bulk and scale. As referred to, the lower ridge slopes away closest to the boundary of Westside which reduces its visual impact, but the proposed building would have floors that extend above the eave's height of Westside with the overall height being above the ridge of the roof. This, along with its bulkier vertical emphasis would be more noticeable and prominent at high level, having an over dominating visual effect on the occupiers of Westside.
13. The nearest windows in the lower ridge slope of the existing building are rooflights serving toilet accommodation and stairways, and the sheer office windows are set at a distance from the boundary with Westside and its rear facing bedroom windows. This is understood to have still been the case even if a previous prior notification for the conversion of the building had been implemented. The proposed 4 storey building would have additional windows set at a closer position to the boundary than that of the existing at a high level along with front facing balconies at 1st, 2nd and 3rd floor level which would allow for angled views in close proximity towards Westside and its habitable room windows and its private amenity space. This would result in a material loss of privacy for occupiers of Westside with the harm being further exacerbated outside of the summer months when trees are not in leaf.
14. The proposed windows would be set back from the main building line with flanking screens proposed to the side of these windows/balconies. At my site visit, I observed the relationship of the appeal site from Westside where its close proximity and its presence was very apparent which would be further felt when taking into account my findings as set out above. I am not therefore sufficiently convinced that such measures would overcome the harm identified and sufficiently channel views in a direction which would not harm the amenity of occupiers of Westside. The positioning of Block B would also not alter my findings on this, as opportunities of overlooking would still be apparent. I am also not persuaded that the proposed railings and opaque balconies would mitigate against this, particularly when occupiers of the flats are stood up. The appellant has suggested additional screening for the southern ends of the balconies, but I have limited detail to be able to consider this further and I am mindful that such could have visual impacts for the building and outlook impacts for future occupiers. A condition would not therefore be appropriate in this instance.
15. No 11 is located to the southwest of the site and there is a good distance separating this property from the appeal site along with good levels of space associated with the garden area of this property. There is also a good level of tree coverage/planting at the rear of this property which helps to restrict views. The proposed building would continue to be positioned at an angle to No 11 whereby its bulk and scale over and above that of the existing building, particularly to the southernmost elevations would be less obvious. Although the building would be close to the rear boundary with this property extending along a proportion of the rear garden width, the relationship that exists and nature of the changes visible from this property would mean that the additional bulk and scale would not be so significant as to have a harmful impact on the occupiers of No 11. This would still be the case even without the

reliance on the longevity of the trees as there would still be a good distance and level of space between the two properties along with the orientation of the proposed building which reduces its overall effect.

16. I understand that the sole full-length windows serving the rear facing bedroom of flat 7 comprises a clear glazed window with no balustrade around the adjacent flat roof facilitating any safe access onto the flat roof area to the rear. As the Council has recognised, it would be possible to preclude the use of the flat roof and even considering the height of the 3rd floor level, the positioning of the building means that outlook from the bedroom window of flat 7 as with other floors would be angled away from No 11 to a degree which would not result in a harmful loss of privacy to the rear garden area of No 11.
17. This would still be the case even when trees are not in leaf and this element is of lesser concern to me but would not overcome the other harm I have identified. Conditions relating to a previous consent and subsequent variation may have required the windows in the west and south elevations to be obscure glazed although this would not alter my findings given the relationship that exists with No 11.
18. For the above reasons and despite my findings in relation to No 11, the proposed development would unacceptably harm the living conditions of existing occupiers of the adjoining dwelling, Westside with particular regard to outlook and privacy. It would therefore be contrary to Policies GC1 and GC3 of the Chiltern Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) consolidated September 2007 and November 2011 (LP) and Policy CS20 of the Core Strategy for Chiltern District, 2011) which together, amongst other matters, requires that new development within the District is of a high standard of design which reflects and respects the character of the surrounding area and those features which contribute to local distinctiveness. It also seeks to protect the amenities enjoyed by the occupants of existing adjoining and neighbouring properties.
19. For the same reasons, the proposed development would also be contrary to section 12 of the National Planning Policy Framework (the Framework) relating to achieving well-designed and beautiful places.

Parking

20. The Buckinghamshire Countywide Parking Guidance, 2015 as amended in 2022 (BCPG) sets out the residential car parking standards which are optimum standards, explaining that the level of parking should be provided unless specific local circumstances can justify deviating from them. It is understood that the proposed development would require a total parking provision of 18 no spaces i.e. 2 no spaces per flat. The proposed development seeks to provide 9 car parking spaces for the proposed units, and this is therefore a significant shortfall with no visitor parking provided. The lack of onsite parking would result in a substandard level of residential amenity for the proposed occupiers and visitors meaning that they would have to park at a distance on surrounding streets. This would also adversely affect the existing level of amenity of existing occupiers in the vicinity as parking would take place on surrounding roads causing a greater level of disturbance and inconvenience. It would also likely have an impact on the services provided by the shopping parade as visitors may not be able to park in the spaces that exist to the north of the access and thus affecting local businesses.

21. The existing lawful use of the site as an office would generate a greater parking requirement over and above that provided at the site and I recognise that there is already a shortfall. However, the appeal site is predominantly a residential area, and although the existing shortfall would necessitate some of the employees of the office use having to park elsewhere which is not ideal, they would have more opportunity to park off-site. This is because the operations are likely to be at times when surrounding residents would be away from home at workplaces etc causing less disturbance and inconvenience to residents who are predominantly in the locality in the evenings and on weekends.
22. There are existing congestion problems on the streets around the site and I understand that this already causes a loss of residential amenity to nearby properties. At my site visit whilst only a snapshot in time, I observed that the car parking spaces to the north of the access serving the parade of shops were well occupied with a good turnover of cars in and out of these spaces with time limits in place for parking. I also noted other parking restrictions for the area including double yellow lines etc. Such parking restrictions and difficulty in parking would mean that vehicles would have to park a greater distance from the appeal site which whilst unsatisfactory for office workers, it would be more unsatisfactory for a residential use whereby occupiers would need convenient access to parking to accommodate their needs and activities.
23. I am also mindful that there is demand for on-street parking when residents are largely in their homes ie evenings and weekends and the demand from the proposed development would mean that occupiers and visitors would be competing for on-street parking with the vehicles of other occupiers during those times. This would exacerbate existing congestion problems on the surrounding streets during times when most residents are at their homes. The proposed development may generate fewer movements than the lawful office use and the highway network may be able to accommodate the additional movements, but this would not bring me to a different conclusion as there would still be demand for parking with future occupiers and visitors needing somewhere suitable to park.
24. In coming to these findings, I have had due regard to the location of the appeal site in relation to facilities and services as well as walking, cycling (including its provision onsite) and public transport links. I am also aware of the Councils' highway's team response on the scheme and lack of objection. However, the parking standards as set out were developed from data showing car ownership across different zones and dwelling sizes as well as the current level of public transport and range of shops and amenities in accordance with the advice/requirements of the Framework.
25. The BCPG sets a target of providing 20% of the overall parking allocation per household as visitor bays. On this basis, 4 visitor bays would be required. The guidance acknowledges that the provision of additional visitor parking may not be possible in smaller developments and provides for a level of flexibility where there is evidence that this would be appropriate and/or other approaches to mitigating the development's impact can be secured. No such evidence has however been provided to apply flexibility in this regard particularly given my findings above.

26. Overall, I have no compelling case which would support the proposed parking provision and such a significant deviation from the parking guidance as set out. The number of proposed habitable rooms is noted as well as reference made to changes in bus connections although I am not convinced that this would justify one space per flat with no visitor parking in this location and in the particular circumstances of this case.
27. The Council has confirmed that Local Plan Policy TR16 relating to parking standards has been superseded, with the BCPG setting out the necessary requirements. I have no compelling case to the contrary and thus reference to this policy is not relevant.
28. A lower level of parking may have been accepted as part of the previous prior notification application although I understand this shortfall was not so significant compared to that of the proposed. In any event, this permission is understood to have expired and thus no longer comprises a fall-back position and I have determined this appeal based on its own merits.
29. For the above reasons, the proposed development would lead to harmful impacts on parking in the area which would be detrimental to the amenities of existing and proposed residents. It would therefore be contrary to Policy GC3 of the LP which amongst other matters, seeks to achieve good standards of amenity for the future occupiers of that development and to protect the amenities enjoyed by the occupants of existing adjoining and neighbouring properties.
30. For the same reasons, the proposed development would also be contrary to sections 11 and 12 of the Framework relating to making effective use of land and achieving well-designed and beautiful places.

Refuse collections

31. It appears undisputed that refuse vehicles would need to reverse onto or off the site from the public highway requiring the collection of refuse at a distance from the carriageway and so would result in refuse vehicles waiting on Burtons Lane while bins are collected. This would result in highway safety and congestion problems for traffic along Burtons Lane.
32. Although refuse bins could be taken from a storage area onsite to Burtons Lane, to allow for kerbside collection which would remove the need for refuse vehicles to enter the site, this option would result in refuse being stored on the pedestrian footway adjacent to the access from Burtons Lane which is not a suitable arrangement for a scheme of this size. This is because it would cause inconvenience and obstruction to users of the footway and carriageway.
33. I do not dispute that collections already take place along Burtons Lane. The proposed building has no frontage like others that would enable the storage of bins adjacent to the carriageway within their frontage. The plans submitted do not show sufficient room to store for collection the recommended capacity for the proposed development without being stored where they would impair pedestrians and the carriageway. A highway verge exists to the front although the proposed number of units would result in several large bins of varying capacity which is likely to cause problems on the main highway verge.
34. The lawful use of the site as offices would be expected to have delivery vehicles frequenting the site within the same land constraints. I understand

that the refuse vehicle that collects the commercial waste would be a privately arranged collection as the Council is only responsible for residential waste collection which may not have required similar movements to that of residential waste and/or similar sized vehicles.

35. I do not therefore find the existing arrangements to be particularly relevant to the scheme I am considering where it is likely that the bin storage would necessitate collection by a number of different collection vehicles leading to increased implications/inconveniences. I cannot agree that the existing arrangements would be the most appropriate/logical for the site and a lack of objection from consultees such as the Council's highway's team would not bring me to a different conclusion on this. As set out, the previous permission at this site is understood to have expired and thus is no longer a fall-back position and would not therefore alter my findings. There may be existing substandard collection arrangements for some of the existing properties in the area of the appeal site, but this would not justify harmful development and further unsatisfactory arrangements.
36. I have considered the appellant's suggestion regarding specialist collection arrangements with a private contractor and/or for a management company to provide for arrangements to move bins to kerbside on collection days. The latter of which would still require bins being placed on the kerbside which I consider to be inappropriate for the reasons already set out. Given the site constraints, I find it appropriate to ensure suitable arrangements for the collection of residential waste to be provided prior to the grant of any planning permission opposed to conditioning such detail.
37. For the above reasons, I conclude that satisfactory provision cannot be made for refuse collections which would be detrimental to the amenity and convenience of future residents. The proposed development would therefore be contrary to Policy GC3 of the LP which amongst other matters, seeks to achieve good standards of amenity for the future occupiers of that development.

Other Matters

38. The site lies within the Chiltern Beechwoods Special Area of Conservation (SAC) Zone of Influence (ZoI) where there is evidence of significant recreational pressures on the SAC arising from new housing development in the ZoI.
39. The Officer's report explains that the Council is working on a mitigation strategy, but this is not yet in place and there is no definitive timeframe yet. A Strategic Access Management and Monitoring Strategy (SAMM) payment has been agreed, but this is on the basis that Suitable Alternative Natural Greenspace (SANG) is also in place, which it is currently not. The Council explain that until such a time that a suitable mitigation strategy is put in place, it is not possible to determine applications which would result in the net increase of residential dwellings or annexes within the affected area.
40. The appellant agrees to both SAMM and SANG payments. However, notwithstanding this and any advances made on the strategy, there is no need for me to undertake an Appropriate Assessment because the scheme is unacceptable for other reasons.

Planning Balance and Conclusion

41. Although I have found a lack of harm in relation to No 11, the proposed development would unacceptably harm the living conditions of existing occupiers of the adjoining dwelling, Westside with particular regard to outlook and privacy. It would also lead to harmful impacts on parking in the area which would be detrimental to the amenities of existing and proposed residents. Additionally, satisfactory provision cannot be made for refuse collections which would be detrimental to the amenity and convenience of future residents. All of which I attribute significant weight.
42. Paragraph 11 of the Framework states that plans and decisions should apply a presumption in favour of sustainable development. For decision-taking, this means that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission 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 (paragraph 11 d) ii.).
43. The appellant claims that the Council can only demonstrate a 2.9 year housing land supply and thus the tilted balance set out at 11 d) of the Framework should apply when taking into account the provisions set out in footnote 8 of the Framework. This includes situations where the local planning authority cannot demonstrate a five-year supply. The Council have not responded on this matter but even if I accepted the appellants' claims in this regard, set against the harm identified, the proposed development would bring this brownfield site back into use with a more energy efficient building. There would be some minor economic benefit through employment during the construction period and some minor economic and social contribution to the local community from new dwellings contributing 9 dwellings to the overall provision which would make a modest difference to the overall supply. Consequently, these benefits collectively attract modest weight.
44. For the above reasons, the adverse impacts in respect of the main issues would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The appeal should therefore be dismissed.

N Teasdale

INSPECTOR