



Appeal Decision

Site visit made on 4 December 2024

by Rachel Hall BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th December 2024

Appeal Ref: APP/K0425/W/23/3330547

Windmill Cottages, Main Road, Lacey Green, Buckinghamshire HP27 0QH

- 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 Millen Homes Limited against the decision of Buckinghamshire Council - West Area (Wycombe).
 - The application Ref is 22/05348/FUL.
 - The development proposed is erection of a pair of semi detached dwellings on land to the rear of Windmill Cottages.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by the Council against the appellant company. An application for costs was also made by the appellant company against the Council. These applications will be the subject of separate Decisions.

Preliminary Matters

3. The site is located within the Chilterns Area of Outstanding Natural Beauty (AONB). AONBs are now known as National Landscapes therefore I refer to it as the Chilterns National Landscape in this decision. However, the legal designation and policy status of these areas remains unchanged by the name change.
4. A preliminary ecological appraisal dated October 2023 (the updated PEA) was submitted with the appellant's final comments. However, no exceptional circumstances were demonstrated to justify the lateness of submitting that updated PEA, aside from it being an administrative error. Accordingly, and in fairness to all parties with an interest in that matter, the updated PEA was not accepted as evidence at appeal.
5. A section 106 planning obligation was submitted at appeal in the form of a unilateral undertaking (the s106). As correctly executed obligations will have legal effect, the s106 was accepted and the Council was given the opportunity to respond. Any comments were taken into account in this decision.

Main Issues

6. The main issues are:

- whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (Framework) and any relevant development plan policies;
- the effect of the proposal on the character and appearance of the surrounding area;
- whether it has been demonstrated that the proposal would be acceptable having regard to its effect on protected species and biodiversity; and
- whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate development

7. The Framework establishes exceptions to inappropriate development in the Green Belt, which includes limited infilling in villages (paragraph 154.e.). National guidance does not define when infilling in villages is to be regarded as limited. It is therefore to be determined as a matter of fact and degree. Policy DM42 of the Wycombe District Local Plan (August 2019) (Local Plan) confirms that Green Belt development will be considered against the criteria in the Framework, but includes additional criteria to be applied. In that regard, part b) iv. of that policy allows for limited infilling in built up villages, with reference to the definition of limited infilling in supporting text to the policy.
8. The policy supporting text indicates that a pair of semi-detached dwellings would amount to limited infilling. Although only joined by their garages, I am satisfied that the two modest sized dwellings would represent a limited form of development in this context. Although there is a field to the north, the appeal site comprises a discreet parcel of land that is almost entirely bound by existing houses, their gardens and accesses. Whilst the proposal does not infill a gap in a built up frontage, there is no policy requirement here for infilling to be on a road frontage. The proposal would occupy a modest gap between other buildings within the village. Moreover, the supporting text to Policy DM42 refers to the subdivision of larger residential gardens as being suitable as infilling in this context.
9. There is considerable variation in plot size in the locality such that the proposed plot sizes would not be unusual. Also, although a linear pattern of development is prevalent in the village, it is not exclusively so. For example, the house known as Jacaranda is positioned to the rear of other houses fronting Main Road. In addition, due to the organic road layout a number of houses on roads leading off Main Road are visible behind houses on Main Road. For example, houses on Silver Birch Road can be seen behind those fronting Main Road. Therefore, I find that visibility of the proposal beyond houses on Main Road would not conflict with the general pattern of development.

10. In the appeal decision for the previous scheme on this site, the Inspector found that the proposal would not amount to limited infilling. Although the surrounding context may not have changed, the current proposal is for a smaller scheme. Moreover, full details of the evidence that was before that Inspector and informed their decision are not before me. In any event, for the reasons given and in light of the evidence here, I conclude that the proposal would amount to limited infilling.
11. Therefore, and whether or not the appeal site is previously developed land, the proposal would not amount to inappropriate development in the Green Belt. It would thus accord with Policy DM42 of the Local Plan. It would also accord with Policy CP8 of the Local Plan which seeks to protect the Green Belt from inappropriate development. Similarly, it would fall within the exception to inappropriate development at paragraph 154. e) of the Framework. As it falls within that exception, there is no need to consider the proposal against the exception under paragraph 154. g) of the Framework. Accordingly, it is also not necessary to consider the effect of the proposal on Green Belt openness, Green Belt purposes, or evidence of very special circumstances.

Character and Appearance

12. There are a range of house types in the vicinity of the appeal site, including detached dwellings, semi-detached, bungalows and dormer bungalows. These have varying pitched and hipped roofs but are generally of traditional, conventional building forms. Brick and flint houses are prevalent, including the Windmill Cottages in front of the appeal site. However, there are also many brick built houses. The variation in building style, whilst retaining a predominance of traditional building forms, is a positive feature of the character and appearance of the area.
13. The submitted section drawing shows that the scale of the houses would be in general conformity with those of other houses immediately surrounding the appeal site. Consequently, and given the relatively flat topography, they would not appear prominent from the surrounding area. The proposed house designs would appear uncontroversial, with a symmetrical design and generous window sizes. The Wycombe District Council Residential Design Guidance (June 2017) (Wycombe Design Guide) seeks to avoid crown roofs where they would be visible, for example where there would be views down on to a building, such as in a valley bottom. However, given the topography of the appeal site and limited visibility from its surroundings, visibility on to the roof would not be an issue here.
14. Although the Council considers that integral garages are not a traditional feature, there are examples in the locality such that it would not appear out of place. Moreover, the integration of the garage space with living space in the roof of the garage would help to limit the bulk of the built form in views from surrounding land. In addition, the location of the proposal set back from the road would ensure the garages do not dominate the street scene. In the circumstances of this case, details of external materials could reasonably be secured by condition to ensure that the proposal effectively integrates with its surroundings.
15. Therefore, the proposal would have an acceptable effect on the character and appearance of its surroundings. As such, it would comply with Policies CP9, DM30, DM32 and DM35 of the Local Plan. These generally require that

proposals achieve high quality design, including with regard to protecting the natural beauty of the Chilterns National Landscape. It would also comply with the requirement in the Framework for proposals to achieve good design.

16. Similarly, the proposal would be acceptable having regard to the Chilterns Building Design Guide (February 2010) which provides details on how new developments should be designed to reflect the special character of villages and the countryside setting. For the reasons given, it would also be acceptable with regard to the Wycombe Design Guide. Also, although the Lacey Green and Loosley Row Village Design Statement seeks to avoid backland development, the proposed infilling would be limited and sympathetic to its surroundings such that it would not be contrary to the approach in the Design Statement as a whole.

Protected Species and Biodiversity

17. The ecological appraisal that accompanied the planning application dates from 2021. Given the undeveloped, overgrown nature of the appeal site, the 2021 ecological appraisal is not sufficiently recent to form a reliable basis on which to assess the impact of the proposal on protected species and biodiversity. The appellant sought to address that with the updated PEA. However that is not before me (for the reasons already given). As such, although both reports are said to find the proposal to be acceptable with respect to biodiversity, no robust evidence is before me on the presence or otherwise of protected species and the extent to which they may be affected by the proposal. Circular 06/2005 is clear that it is necessary for that to be established before planning permission is granted.
18. I have had regard to the submitted evidence, including the Biodiversity Plan, Biodiversity Net Gain Calculations by ROAVR Group (January 2024), and the Biodiversity Metric 4.0 Calculation Tool. The existing habitats on site are said to generate 0.84 habitat units and 1.22 hedgerow units. Also, post development the proposal is expected to generate 1.19 habitat units and 1.51 hedgerow units, amounting to a biodiversity net gain of 41.51% and 23.02% respectively. Nevertheless, without scrutiny of the updated PEA, I cannot be sufficiently certain that the BNG Calculations are accurate and reflect the circumstances currently on site. Given the lack of robust ecological evidence as described, it is unclear whether the proposal would achieve the biodiversity net gains envisaged.
19. I note that the appellant has sought to address the need for a biodiversity net gain through a s106 commitment to deliver a gain of at least 10 percent, either through measures proposed on site or through purchasing biodiversity credits. However, given the uncertainties over the existing and future status of the site with regard to protected species and biodiversity, it is not possible to conclude whether that obligation meets the relevant tests for planning obligations as set out in the Framework.
20. Accordingly, it has not been demonstrated that the proposal would be acceptable having regard to its effect on protected species and biodiversity. As such, I cannot find compliance with Policies DM13 and DM14 of the Delivery and Site Allocations Plan (July 2013), and Policy DM34 of the Local Plan. Collectively, these seek to manage the impact of development on important habitats and protected species and to maximise biodiversity.

21. The proposal would also not be in compliance with requirements in the Framework for proposals to minimise impacts on biodiversity and provide net gains. Similarly, I cannot find that it would comply with the approach in Buckinghamshire Council's Biodiversity Net Gain Supplementary Planning Document (July 2022). That aims to ensure developments avoid on-site loss of biodiversity, mitigate unavoidable loss and deliver compensation for losses where they would be unavoidable.

Other Considerations

22. As the proposal would not be inappropriate development in the Green Belt, it would not lead to Green Belt harm. Accordingly, there is no need to consider whether other considerations would be sufficient to amount to very special circumstances.

Other Matters

23. The s106 includes a commitment to make a contribution to the Council for the provision of off-site affordable housing. However, the proposal does not meet the policy threshold at which an affordable housing contribution would be required. Accordingly, that contribution would not meet the tests in the Framework for being necessary to make the development acceptable, directly related to the development, and fairly related in scale to the development. As such, the affordable housing contribution is not afforded positive weight in my assessment of the appeal.

Conclusion

24. The proposal would deliver two modern houses that could each accommodate a family in a residential area. There would be small economic advantages of construction of the proposal which would be short term and a further modest benefit from its occupation and associated spending in the locality. An absence of harm in respect of matters such as the Green Belt, character and appearance, drainage, flood risk and highway safety are neutral considerations.
25. However, the proposal would not be acceptable with respect to its potential impact on a protected species and biodiversity. Therefore, having taken all other relevant matters into account, the proposal conflicts with the development plan taken as a whole and with the approach in the Framework. Consequently, the appeal should be dismissed.

Rachel Hall

INSPECTOR