



Appeal Decision

Site visit made on 20 November 2024

by S Rawle BA (Hons) Dip TP Solicitor

an Inspector appointed by the Secretary of State

Decision date: 20 December 2024

Appeal Ref: APP/K0425/W/24/3343634

Land adjacent to The Rise, Hammersley Lane, Loudwater, High Wycombe, Buckinghamshire, HP13 7BX

- 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 Hammersley Developments Ltd against the decision of Buckinghamshire Council - West Area (Wycombe).
 - The application Ref is 22/08238/FUL.
 - The development proposed is to construct 2no 2 bedroom semi-detached dwellings
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Decision

1. The appeal is allowed and planning permission is granted to construct 2no 2 bedroom semi-detached dwellings at Land adjacent to The Rise, Hammersley Lane, Loudwater, High Wycombe, Buckinghamshire, HP13 7BX in accordance with the terms of the application, Ref 22/08238/FUL, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs has been made by the appellant which is subject to a separate decision.

Main Issues

3. The main issues are:
 - Whether or not the proposed development would be premature bearing in mind that it is part of a larger site allocated for housing and a mixed used development; and
 - The effect of the proposal on the character and appearance of the area including the local landscape.

Reasons

Prematurity

4. The appeal site is located adjacent to two pairs of semi-detached properties. Although the appeal site forms part of a large site that has been allocated for housing, I observed at the site visit that it relates much more closely to the existing dwellings rather than the large swathe of agricultural land to the north. Not only is there a fence that an extensive post and rail fence that separates the two parcels of land, but also the appeal site is partly lawned and appears to be used as part of the garden area of The Rise.

5. The appeal site together with a much larger swathe of land, which creates a 74 hectare site are allocated for a residential led mixed use development comprising residential, business and associated community uses under the Gomm Valley and Ashwells site allocation (GV&AS) of the Wycombe District Local Plan adopted August 2019 (WDLP). Policy HW6 of WDLP sets out requirements for the GV&AS including placemaking, landscape, green infrastructure/environment and transport.
6. An illustrative layout is included below Policy HW6 of WDLP which is referenced in the explanatory text. The appeal site does not form part of the illustrative layout. The Council highlight that the illustrative layout was prepared as part of the Development Brief (DB) which covered the land under the control of the Council and that of the main landowners and developers and was adopted in July 2017 whereas the allocation subject of Policy HW6 which does include the appeal site was adopted in 2019.
7. However, to my mind, the appeal site was omitted from the illustrative plan for good reason in that it contains a very small parcel of land that is in separate land ownership. Moreover, although produced before the WDLP, the DB is referred to in the explanatory text of the WDLP, the illustrative layout is included immediately below Policy HW6 and is also referred to in the explanatory text. Consequently, the illustrative layout is a material consideration of significant weight as it provides an illustration of how a scheme that complies with Policy HW6 of the WDLP might appear.
8. Given that the appeal site is not included in the illustrative layout that supports Policy HW6 of WDLP I am satisfied that it is appropriate for the appeal site to be considered separately from the rest of the larger allocated site and that such an approach does not conflict with that policy. My view is supported by the fact that a hybrid application for the remainder of the allocated site has been submitted by a national housebuilder (the comprehensive scheme).
9. I note that the comprehensive scheme included a full application for 79 dwellings and an outline scheme for 461 dwellings, a new primary school, employment land and community floorspace. Although at the time the main parties' submissions were made on this appeal, that application had been rejected and was subject to an appeal, nevertheless it is clear that it has been possible for the comprehensive scheme to be submitted which does not appear to have been undermined by the exclusion of the appeal site. Moreover, given that the appeal site has not been included as an integral component of the comprehensive scheme, it is not at all clear how it could now be incorporated into the overall masterplan that has been prepared by the national housebuilder.
10. On that basis, it is not premature to consider the proposed development before me. Further, a comprehensive scheme has been submitted for 540 houses, a new primary school, employment land and community floorspace, that would inevitably have to ensure that all the required components of the development of the allocated site are secured including any necessary financial contributions. It follows that it is appropriate to consider the proposed development on the basis of the application submitted which is for two 2 bedroom semi-detached dwellings.
11. I therefore conclude that the proposed development would not be premature bearing in mind that it is part of a larger site allocated for housing and a mixed

used development given the particular circumstances involved as set out above. Consequently, the proposal is not at odds with Policy HW6 of WDLP as the proposed development would not undermine the comprehensive development of the allocated site.

Character and appearance

12. The appeal site is located adjacent to two pairs of semi-detached properties opposite other residential dwellings within an established residential area. As outlined above, the appeal site itself relates much more closely to the existing semi-detached dwellings rather than the large swathe of agricultural land to the north.
13. In appearance terms it is compatible with the adjacent existing residential dwellings as it appears to form part of the existing garden of The Rise and does not have the appearance of open countryside. I also agree with the Council who in their delegated report highlight that the appeal site has the character of garden land.
14. The proposed development would involve the erection of a pair of semi-detached properties which would demonstrate attractive and high-quality design and would be appropriate in terms of scale, form, layout and detailed design.
15. The adjacent dwellings have a hipped roof design, and the proposed dwellings would have a gabled roof design. However, this element would not harm the character and appearance of the area. Gabled roofs are not an alien feature within the wider residential area and there are examples of properties with gabled roofs being located next to properties with hipped roofs and this arrangement does not harm the general rhythm of the streetscene.
16. That would be the situation here as the proposed development would be set away from the pair of semi-detached properties on the adjacent plot by a sufficient distance so that they would have their own distinct appearance and would not appear jarring or as a discordant feature in the streetscene. Consequently, the proposal would not unacceptably harm the general rhythm of the street.
17. As outlined, the appeal site has the appearance of garden land. Subject to a certain amount of re-levelling of the appeal site which could be secured by condition, the proposed dwellings themselves and associated development works would fit comfortably onto the plot. The area to the rear would provide modest gardens to serve the proposed dwellings which would be compatible with existing garden areas serving the adjacent properties.
18. Moreover, the proposed landscaping scheme would result in the boundaries between the appeal site and surrounding land being reinforced with native species which would be of benefit to the character and appearance of the area and would be entirely in keeping with its surroundings. In addition, the proposal would not unacceptably harm longer views, including those from Hammersley Lane. Further, the proposed drive and parking areas would incorporate appropriate new planting which would ensure that the area to the front of the proposed dwellings would respect the existing character and appearance of the area. For the reasons set out above, the proposal would not be at odds with Policy HW6 of WDLP as the proposed development would not

undermine the comprehensive development, including landscaping aspects of the allocated site.

19. I therefore conclude that the proposal would not unacceptably harm the character and appearance of the area including the local landscape. As a result, the proposed development would comply with policies CP9 and DM35 of the WDLP which among other things seek to ensure that new development delivers a distinctive high-quality sense of place and demonstrates attractive high-quality design and appropriate character in the scale, form, layout and detailed design of buildings and the structures and spaces around them.

Other Matters

20. I have taken account of concerns raised about dust nuisance during construction. However, this is a transient matter which would be controlled by other regulations which among other things protect against risks from hazardous construction dusts. Consequently, this matter does not weigh against the proposal.
21. Concern has been raised about the impact the proposal would have on highways safety. However, the highways authority has confirmed that they are satisfied that the proposed parking arrangements are satisfactory and that vehicles will be able to enter and exit the appeal site in forward gear and consequently do not object to the proposal. I am also satisfied that the proposal provides adequate parking facilities and would not harm highway safety.
22. The appellant has prepared an ecological assessment which demonstrated that there was not a reasonable likelihood of protected species being present or affected by the proposed development. The proposal would also result in a biodiversity net gain (BNG). As a result, the ecology officer was satisfied that no further supporting ecological information was required and considered that the BNG was appropriate. I agree with that analysis. I am also satisfied that the proposal would not have an adverse impact on the existing sewerage system.
23. Concern has been raised that the appellant cleared the site prior to the submission of the original application and installed bollards. However, management and maintenance of the appeal site prior to determination of the appeal is not a matter that weighs against the proposal. Further, to allow future access to the appeal site the existing bollards will be removed. It has also been raised that covenants restrict the type of development permitted on the appeal site. However, this is a private land matter that does not have a bearing on the planning merits of the proposal before me. Although I note that planning permission was not granted for a previous scheme, that was some considerable time ago and circumstances and the planning context have changed since then and I have determined this appeal on the basis of the relevant and most up to date planning context.

Conditions

24. I have had regard to the conditions suggested by the Council and amended, amalgamated, reordered and where appropriate deleted them as necessary in the interests of precision and clarity, as well as to comply with advice in the Framework and Planning Practice Guidance (PPG). It is necessary to impose

- pre-commencement conditions and the appellant has confirmed that they agree to such conditions.
25. A condition is needed to secure compliance with the approved plans for the avoidance of doubt and in the interests of proper planning. A condition requiring that details of external and surface materials to be used is necessary in the interest of the appearance of the scheme and the surrounding area.
26. In the interests of the appearance of the scheme and the character and appearance of the area it is necessary to impose conditions to ensure appropriate boundary treatment is implemented and that the proposed development is constructed at an appropriate level. To protect the living conditions of future occupants from adverse noise impacts it is necessary to ensure appropriate sound insulation is installed.
27. To ensure that the proposal does not adversely impact protected species and provides biodiversity enhancements it is necessary to impose relevant conditions. To protect the living conditions of future neighbouring residents it is reasonable to impose a condition requiring that a first-floor window is obscure glazed.
28. In the interests of highway safety and to promote sustainable transport options it is necessary to impose a condition in relation to vehicle parking and to ensure an appropriate means of access is provided. In the interests of the character and appearance of the area it is necessary to impose a condition to require details of cycling, bins, refuse and recycling storage facilities.
29. In the interests of sustainability, it is reasonable to restrict the daily use of water and to protect the area from flood risk it is necessary to impose a condition to ensure the implementation of a surface water drainage scheme.
30. Paragraph 55 of the Framework states that planning conditions should not be used to restrict national permitted development (PD) rights unless there is clear justification to do so. The PPG also advises that conditions restricting the future exercise of PD rights may not pass the test of reasonableness or necessity. This is a modest development adjacent to existing residential development and consequently it is unnecessary to restrict PD rights.
31. Similarly, the PPG sets out that conditions requiring compliance with other regulatory requirements, such as the Building Regulations, will not meet the test of necessity and may not be relevant to planning. The installation of electric vehicle charging points is now covered by Building Regulations and so a condition in that respect is unnecessary.

Conclusion

32. For the reasons given above the appeal should be allowed.

S Rawle

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos HDL/1/22 REV E; HDL/2/22; and HDL/03/22 REV B.
- 3) No development shall take place until a schedule and/or samples of all external facing and surfacing materials have been submitted to and approved in writing by the local planning authority in writing. The development shall be carried out in accordance with the approved details.
- 4) No development shall take place until details of all screening, boundary fences and any other means of enclosure have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and the dwellings hereby approved shall not be occupied until the approved details have been fully implemented.
- 5) No development shall take place until details of the following have been submitted to and approved in writing by the local planning authority;
 - Existing ground levels on site (spot heights) including a datum point that is located off site. Levels should be Above Ordnance Datum (AOD);
 - The level of the road outside the site. (AOD);
 - The proposed levels on site following completion of the development (for each existing height a proposed height should be identified);
 - The location and type of any retaining structures needed to support ground level changes;
 - The finished floor level for every building that is proposed;
 - Cross sections within the site taken up to the site boundaries. The information supplied should clearly identify if land levels are being raised or lowered;
 - Sections showing the level of the proposed gardens and retaining structures.

The development shall be carried out only in accordance with the approved details.
- 6) No development shall take place until a sound insulation scheme for the dwellings hereby permitted to protect them from traffic noise from Hammersley Lane has been submitted to and approved in writing by the local planning authority. The sound insulation scheme shall be implemented before any part of the accommodation hereby approved is occupied. The scheme shall ensure the indoor ambient noise levels in living rooms and bedrooms meet the standards in BS 8233:2014 for the appropriate time period. Unless otherwise agreed in writing with the local planning authority it shall be assumed that the existing noise level at the façade of the proposed development is 63dB LAeq 16 hour and 57dB LAeq 8 hour.

- 7) No development shall take place until an ecological design strategy (EDS) addressing habitat creation as outlined within the Biodiversity Impact Assessment (Cherryfield Ecology, August 2023), has been submitted to and approved in writing by the local planning authority. The EDS shall include the following: a) Purpose and conservation objectives for the proposed works; b) Review of site potential and constraints; c) Detailed design(s) and/or working methods to achieve stated objectives; d) Extent and location/area of proposed works on appropriate scale maps and plans; e) Type and source of materials to be used where appropriate, e.g. native species of local provenance; f) Timetable for implementation; g) Persons responsible for implementing the works; h) Details of initial aftercare and long-term maintenance; i) Details for monitoring and remedial measures; j) Details for disposal of any wastes arising from works.
- The EDS shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.
- 8) Prior to the first occupation of the dwellings hereby permitted, the development shall be implemented in accordance with the ecological enhancements as shown on the approved proposed site layout plan (Dwg No. HDL/1/22 Rev E) or if relevant as updated in the approved EDS required under condition 7. Should the trees/hedgerows die within 5 years of being planted they shall be replaced in the next planting season with trees/hedgerows of a similar size and species.
- 9) The building hereby permitted on the northern plot shall not be occupied until any first-floor window in the northern side elevation has been fitted with obscured glazing, and no part of that window that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.
- 10) No other part of the development shall be occupied until the means of access onto Hammersley Lane has been provided in accordance with the approved drawings and constructed to the appropriate highway authority access standards.
- 11) No dwelling shall be occupied until space has been laid out within the site in accordance with the approved drawings for cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear and that space shall thereafter be kept available at all times for those purposes. Any new hard surfaces that form the parking and manoeuvring area shall be made of porous materials or provision shall be made to direct run-off water from any hard surface area to a permeable or porous area or surface within the curtilage of the dwellinghouses hereby permitted.
- 12) Prior to the first occupation of the dwellings hereby permitted, the design, materials and appearance details of the cycling, bins, refuse and recycling storage areas shall be first submitted to and approval by the local planning authority. The facilities shall be constructed in accordance with the approved details prior to the first occupation of the development hereby permitted and permanently retained thereafter.

- 13) The dwellings hereby approved shall be constructed to meet as a minimum the higher standard of 110 litres of water consumption per person per day using the fittings approach as set out in the 'Housing: optional technical standards' guidance and prescribed by Regulation 36(2)(b) of the Building Regulations 2010.
- 14) The development hereby approved shall store all additional runoff within the site and either reuse it or release it into the ground through infiltration. Where the additional runoff is not to be re-used or on-site infiltration methods are not proposed, details of how the risk of flooding elsewhere will not be increased shall be submitted to and approved by the local planning authority prior to any development taking place. The approved details shall thereafter be implemented prior to the development being brought into use and thereafter managed and maintained for the lifetime of the development.