



Appeal Decision

Site visit made on 26 November 2024

by D Wilson BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th January 2025

Appeal Ref: APP/X0415/W/24/3341519

36 Lowndes Avenue, Chesham HP5 2HH

- 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 & Mrs M O'Hare against the decision of Buckinghamshire Council.
 - The application Ref is PL/22/0763/FA.
 - The development proposed is construction of new detached dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. In December 2024 a revised National Planning Policy Framework (the Framework) was published. However, in respect of the main issues for consideration in this appeal, the revised Framework has not changed Government Policy and so the cases for the appeal parties have not been prejudiced. I shall consider the appeal accordingly. In respect of the paragraphs submitted that are no longer correct, I have considered the most relevant paragraph in the current Framework.

Main Issues

3. The main issues are the effect of the proposed development on:
 - the character and appearance of the area,
 - the living conditions of neighbouring occupiers with regard to outlook, privacy and private outdoor amenity space, and
 - whether the proposed development would provide adequate living conditions for future occupiers with regard to privacy and the provision of private outdoor amenity space.

Reasons

Character and appearance

4. The appeal site is located within the rear garden of No 36 Lowndes Avenue which is a two storey dwelling. The wider area is predominantly residential and consists of regular building lines and spacing between dwellings with properties facing the road with similar, large sized plots. This results in rhythm and uniformity within the street scene.

5. The proposed development would sub divide the existing garden of No 36 which would upset the rhythm of similar sized plot sizes along Lowndes Avenue. Furthermore, the location of the proposed dwelling would not follow the existing building line along Stanley Avenue. Instead, the dwelling would sit awkwardly within the plot as it would be forward of the building line and would not front the road which would erode the rhythm and uniformity on the street scene.
6. There are some dwellings nearby the appeal site that have similar sized plots to the appeal proposal and do not front the highway. However, these do not detract from the predominantly large and regular sized plots in the wider area and majority of houses that front the highway and contribute to the rhythm and uniformity in the street scene.
7. The proposed dwelling would occupy most of the plot's width, however, gaps between the side of properties in the area are generally narrow which the proposal would follow. The dwellings along Stanley Avenue have a very similar appearance which the proposed dwelling would also largely follow. Therefore, in terms of the gaps to the side of the proposed dwelling, along with its style, would not upset the rhythm and uniformity.
8. I therefore conclude that the proposed development would harm the character and appearance of the area. It would be contrary to Policies GC1 and H3 of the Chiltern District Local Plan Adopted 1 September 1997 Consolidated September 2007 and November 2011 (LP) and Policy CS20 of the Local Development Framework Core Strategy for Chiltern District adopted November 2011 (CS). Amongst other things, these seek to ensure that development relates well to the characteristics of the site on which it is to be located and 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.

Living conditions of neighbouring occupiers

9. The proposal would reduce the size of the garden for No 36 and its location, at the rear, combined with its height and width would take up most of the plot. While No 38 Stanley Avenue is visible from the rear garden of No 36, at a nearer distance than the proposed dwelling, the narrow gap between the side of the proposed dwelling and No 38 would add to the existing bulk. The proposal would therefore be overbearing when viewed from the rear garden and result in a harmful outlook for the occupiers of No 36.
10. The proposal would also include windows on the first floor which would serve a bedroom which due to the closeness would result in a loss of privacy for the occupiers of No 36.
11. The proposed dwelling would also occupy a significant depth of the plot which would be prominent when viewed from the rear garden of No 34 Lowndes Avenue, even with the set back distance. The small gap between the boundary would highlight the prominence and the existing landscaping, due to its low height would not sufficiently soften the impact. The proposal would therefore result in an overbearing feature that would harm the outlook for the occupiers of No 34.

12. I therefore conclude that the proposed development would harm the living conditions of neighbouring occupiers with regard to outlook and privacy. It would be contrary to Policies GC3 and H12 of the LP which amongst other things, seek to ensure that development protects the amenities of existing and neighbouring properties.

Whether adequate living conditions would be provided for future occupiers

13. Policy H12 of the LP states that the general standard for rear garden depth will be a minimum of 15m. However, where average garden lengths in the vicinity of the development site are significantly more than 15 metres, the garden lengths of the proposed houses or bungalows should be similar to those in the surrounding area.
14. Properties on both Stanley Avenue and Lowndes Avenue have large gardens which predominantly have depths that are greater than 15m. The proposed garden would be less than 10m in depth which would be out of character with the area and provide a short garden for future occupiers. While I acknowledge the width and overall size of the garden, the short depth would not provide an adequate amount of private outdoor amenity space for future occupiers.
15. The closeness of the rear garden to the existing dwelling at No 36, combined with the first floor windows that serve habitable rooms would also mean that the space is overlooked. I note landscaping could be provided on the boundary; however, I am not satisfied that this would sufficiently mitigate the overlooking. As such, the proposal would not provide an acceptable level of privacy for future occupiers.
16. I therefore conclude that the proposed development would not provide adequate living conditions for future occupiers with regard to the provision of private outdoor amenity space and privacy. It would be contrary to Policies GC3 and H12 of the LP which amongst other things, seek to ensure that development achieves good standards of amenity for the future occupiers.

Planning Balance

17. The proposal would be contrary to Policies GC1, GC3, H3 and H12 LP and Policy CS20 of the CS. These Policies are consistent with the National Planning Policy Framework (the Framework) in focusing on ensuring that proposals will function well and add to the overall quality of the area and create places with a high standard of amenity for existing and future users.
18. The Council is unable to demonstrate a 5-year supply of deliverable housing sites in accordance with Paragraph 72 of the Framework. The Council state that they are only able to demonstrate a 2.9 year supply, which is not disputed by the appellant. This represents a significant undersupply. Paragraph 11 d) of the Framework indicates that, in such circumstances where the requisite housing land supply cannot be shown, the Policies which are important for determining the application should be deemed out-of-date and permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the Policies in the Framework taken as a whole.

19. The proposed development would contribute to the supply of new homes in a situation where there is a shortfall, and it is more likely to be able to be built out quicker due to its small scale. This attracts significant weight in favour of the proposed development.
20. The proposal would also support the creation of jobs directly and indirectly during construction and result in future occupiers spending in the locality. Although this is tempered by the fact that the proposal is only for one dwelling.
21. In this instance, the harm to the character and appearance of the area, living conditions of neighbouring occupiers and inadequate living conditions for future occupiers would significantly and demonstrably outweigh the very modest benefits. As such, the proposal would not constitute a sustainable form of development in terms of the Framework.
22. Consequently, when assessed against the Policies in the Framework when taken as a whole the adverse impacts would significantly and demonstrably outweigh the benefits.
23. The appeal site falls within the zone of influence for the Chiltern Beechwoods Special Area of Conservation. As the competent decision-making authority, if I had been minded to allow the appeal it would have been necessary for me to complete an Appropriate Assessment for this scheme. However, as I am dismissing the appeal for other reasons, I have not taken the matter further.

Conclusion

24. For the reasons given above the appeal should be dismissed.

D Wilson

INSPECTOR