



Appeal Decision

Site visit made on 11 February 2025

by Elaine Moulton BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 February 2025

Appeal Ref: APP/J0405/W/24/3350511

Tree Tops, Halton Village, Aylesbury HP22 5NS

- 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 J Rose against the decision of Buckinghamshire Council.
 - The application Ref is 24/00783/APP.
 - The development proposed is erection of replacement dwelling and new gym.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. My attention has been drawn, during the application process, to a recent planning permission for the 'demolition of existing sunroom and erection of gym/pool room'. The evidence before me indicates that the permitted gym/pool room has the same footprint and floor plan, and is in a similar position, to the new gym building that forms part of this appeal proposal but differs in its appearance.
3. For the avoidance of doubt, my responsibility is to consider the proposal based on the scheme as it appears on the submitted appeal plans, on which the Council reached its decision.

Main Issues

4. The main issues are:
 - Whether the proposed development would preserve or enhance the character or appearance of the Halton Conservation Area (CA), and the effect on the significance of Tree Tops, a non-designated heritage asset (NDHA);
 - The effect of the development on flood risk;
 - The effect of the proposal on European protected species and habitats, with specific regard to bats and Great Crested Newts (GCNs); and
 - The effect of the proposal on visually significant trees.

Reasons

Character and appearance

5. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) states that with respect to any buildings or other land in a conservation

area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

6. The CA has a small and tightly drawn boundary encompassing the historic core of the village but excluding areas of modern development. As set out in the Halton Conservation Area Appraisal (HCAA), the architectural style and detailing of its buildings give it a distinctly 19th century sense, and trees make a positive contribution to its character and appearance, reinforcing the rural nature of the village. The significance of the CA, therefore, derives broadly from the historic, rural character of Halton.
7. The existing dwelling, Tree Tops, is in substantial and attractive landscaped grounds which include a large pond behind which the dwelling sits. It has an Arts and Crafts architectural style, clad in clay tiles and roughcast render reflective of other buildings within the CA. Although large, its bulk and massing is broken up by its asymmetrical form, comprised of one and a half and two storey elements.
8. The dwelling has been extended, its windows have been replaced and it has been altered internally using standard, 'off the shelf', materials. In addition, it is largely screened from public view by trees and hedgerows. Nonetheless, externally it remains an attractive building, worthy of its identification as a NDHA, and as a key building in the HCAA. Overall, its appearance is rural in character and, together with its sylvan and verdant grounds, it contributes positively to the area.
9. The Council have raised no objections to the proposed single storey detached gym building. Based on the information before me, and due to it being similar in size and position to the existing sunroom, I agree that it would not harm the character or appearance of the CA.
10. The appeal scheme would result in Tree Tops being demolished and replaced by a large dwelling. Its overall height would only be marginally higher, and its footprint would be broadly similar. However, the proposed dwelling would be entirely two storeys in height and would present a wide front elevation towards the pond and the highway beyond. Consequently, the resultant building would have a significantly greater bulk and massing than the current dwelling.
11. The proposal would have a steeply pitched roof, and would include dormers and a chimney, which are all notable architectural features within the CA. Furthermore, it could incorporate roof tiles that match the existing garage block, and the external facing brick could, if carefully selected, reflect those within the CA. Nevertheless, its scale, massing and design, which would include a highly glazed central projecting gable on the front and rear elevations and aluminium windows, would give the dwelling a distinctly modern appearance. Such a design, together with its extensive scale, would result in it having a distinctly suburban appearance that would be incongruous and would erode the rural character of the CA.
12. The proposed dwelling would therefore fail to preserve the character and appearance of the CA as a whole and would result in the loss of a NDHA. I acknowledge that this judgement might be contrary to assessments undertaken in consideration of previous planning applications. However, it would appear from the planning history that such decisions were made in 1981 or earlier and, thus, in a different policy context prior to the designation of the CA. For these reasons, such decisions do not alter my findings in this regard.

13. Paragraph 212 of the National Planning Policy Framework (the Framework) advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). Paragraph 213 goes on to advise that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or development within its setting), should require clear and convincing justification.
14. Whilst the Council contends that the harm would be substantial, I am mindful that this is a very high test. In my judgement, the harm I have identified would be 'less than substantial' but, nevertheless, of great weight. Under such circumstances, paragraph 215 of the Framework advises that this harm should be weighed against the public benefits of the proposal. In addition, paragraph 216 says that in weighing applications that directly or indirectly affect NDHAs, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
15. Due to the method of construction, and lacking any substantive evidence to the contrary, it is very likely that the proposal would have a markedly higher energy efficiency than the existing dwelling. Therefore, whilst it may hold embodied energy, as noted by the Council, I consider that the replacement dwelling would, through its lifetime, save more energy than that lost by the demolition of the building. Nonetheless, the harm to the CA and the loss of the NDHA, to which I attach considerable importance and great weight, would outweigh such a public benefit.
16. I conclude that the proposal would harm the character and appearance of the CA and, through its loss, the significance of Tree Tops, a non-designated heritage asset. It would therefore be contrary to Policies BE1 and BE2 of the Vale of Aylesbury Local Plan (VALP) which seek to conserve heritage assets, set out a presumption in favour of preserving NDHAs and, generally require development to respect its surroundings and local distinctiveness.

Flood Risk

17. Paragraph 181 of the Framework states that when determining any planning applications, it should be ensured that flood risk is not increased elsewhere. The site area is 1 hectare or more, thus, a site-specific flood-risk assessment (FRA) is required to accord with paragraph 174 and VALP Policy I4.
18. The flood risk information provided with the appeal is limited but shows that the site is in an area which has been assessed to be at Low-Moderate risk of surface water flooding. It does not, however, consider the risk of flooding off site posed now and in the future by the proposed development.
19. I acknowledge that the proposal is to replace existing buildings, and the development could be elevated above flood levels. I also note the absence of past flooding on the site. Nonetheless, due to additional surface water runoff from the increased scale of the dwelling and without evidence demonstrating otherwise, the proposal could increase flood risk elsewhere. The appellants highlight that much of the adjoining land is used for grazing, a low vulnerability use in flood risk terms. However, there are also residential properties nearby that could be affected. Thus,

I find that the submitted information does not meet the objectives of an FRA set out in Planning Practice Guidance¹ and is, therefore, not fit for purpose.

20. Accordingly, in the absence of evidence that demonstrates otherwise, the proposed development would have an unacceptable effect on flood risk and would conflict with VALP Policy I4 which seeks to manage flood risk.

Protected Species

21. Paragraph 99 of Circular 06/2005² states that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before any planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.
22. The appeal is supported by a Preliminary Roost Assessment. It identifies that the onsite habitat is optimal for supporting bats and recommends that one bat emergence or re-entry survey is carried out during the active bat season to confirm the presence or likely absence of a bat roost in the building. It also recommends that if bat roosts are confirmed further surveys may be required. Given such a strong likelihood that bats are present on the site, and in the absence of further surveys that demonstrates otherwise, it is likely that the proposal would have adverse effects on protected species. I have considered the use of a suitably worded condition to secure further surveys, however no exceptional circumstances have been identified and, therefore, this would be contrary to the Circular.
23. The Council has changed its position relating to GCNs and now considers that precautionary measures during construction would be required, which could be dealt with by condition. As the proposed development lies within the footprint of the existing buildings this limits the potential risks to GCNs. Accordingly, I agree with the conclusions of the Council that a non-licensed method statement could be secured through the imposition of a pre-commencement condition.
24. To conclude, the proposed development would have an adverse effect on bats, a European protected species, and their habitat. This is contrary to VALP Policy NE1 which seek to prevent loss of protected species and their habitats.

Trees

25. When granting planning permission for the gym/pool room the Council were satisfied that there would be no adverse impact on trees and the evidence before me supports that conclusion. The Council, however, remain concerned about the relationship of the proposed replacement dwelling to trees.
26. An Arboricultural Implications Assessment and Method Statement (AIAMS) was submitted in connection with the recently permitted gym/pool room application. Whilst the AIAMS does not assess the implications of the proposed replacement dwelling, it does identify two mature and visually significant trees very close to its side elevation and shows that their canopies would overhang it.
27. The AIAMS clarifies that the position of the proposed dwelling in relation to such trees would remain unchanged from the existing situation, and, given that the two-

¹ Paragraph: 020 Reference ID: 7-020-20220825

² Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System

storey gable of the existing would be replaced by a hipped roof, the extent of encroachment into the tree canopies would be no greater. Furthermore, as the position of the windows would be broadly like the existing dwelling, it is reasonable to consider that the proposal would not increase pressure to cut back branches, or remove the trees, to address concerns about shading or property damage.

28. Consequently, I am satisfied that the information provided is sufficient to conclude that the proposed development would not be likely to pose a greater risk to the health of trees in the long term. In addition, protection measures and suitable Arboricultural practices to be employed during construction could be agreed through suitably worded conditions.
29. In reaching this conclusion I have had regard to the appeal decisions referred to by the Council in the Arboricultural Statement of Case. However, it is unclear whether those cases involve a replacement building and on a similar footprint to the existing. Therefore, whilst recognising the importance of consistency in decision making, such appeal decisions do not provide clear or convincing justification to refuse the scheme on this main issue.
30. For the reasons given above, the proposal would not have an unacceptable effect on visually significant trees. It would not, therefore, be contrary to VALP Policy NE8 which seeks to resist development which would result in the unacceptable loss of, or damage to or threaten the continued wellbeing of any trees.

Other Matters

31. The appellants refer to the intention to create a forever home where they were born and raised. Nevertheless, this is not a consideration which outweighs the harm identified above.
32. The appeal site lies within the zone of influence for the Chilterns Beechwoods Special Area of Conservation. However, as the appeal is to be dismissed, there is no need for further consideration to be given to this or to the provisions of the Conservation of Habitats and Species Regulations 2017.

Conclusion

33. Whilst I have found that the proposal would not have an unacceptable effect on trees. However, this does not outweigh the harm that I have identified above. The proposed development, therefore, conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweighs the identified harms and associated development plan conflict.
34. Accordingly, I conclude that the appeal should be dismissed.

Elaine Moulton

INSPECTOR