



Appeal Decision

Site visit made on 7 June 2021

by Martin Chandler BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 August 2021

Appeal Ref: APP/X0415/W/20/3261392

20 Narcot Lane, Chalfont St Giles HP8 4DA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by P.J. Carey Plant Hire (Oval) Ltd against the decision of Buckinghamshire Council.
 - The application Ref PL/20/0186/FA, dated 13 January 2020, was refused by notice dated 7 October 2020.
 - The development proposed is the demolition of a single dwelling and the construction of 31 affordable (discounted market sales housing), custom build dwellings with associated provision of car parking, open space, landscaping, drainage and infrastructure works.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Since the submission of the appeal, a revised National Planning Policy Framework (the Framework) has been published. The main parties have been consulted in relation to this matter, and any responses received have been factored into my assessment of the appeal.

Main Issues

3. The main issues are:
 - i) whether the proposal would constitute inappropriate development in the Green Belt;
 - ii) whether the proposal would make appropriate provision for affordable housing;
 - iii) the effect of the proposal on biodiversity;
 - iv) the effect of the proposal on the character and appearance of the area;
 - v) whether an appropriate mechanism exists to promote sustainable transport opportunities; and
 - vi) if the proposal would be inappropriate development, whether the 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 necessary to justify it.

Reasons

Inappropriate development

4. The fundamental aim of Green Belt policy in the Framework is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence.
5. Paragraph 147 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The construction of new buildings should be regarded as inappropriate development in the Green Belt. However, an identified exception is limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development, or would not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.
6. The appeal site is a large parcel of land that is currently occupied by a single dwelling which is substantially set back from the road and located somewhat centrally within the site. When viewed from the road, the site has a row of detached dwellings located to its right, and a youth club building located to its left. However, the site presents a wide and undeveloped frontage to the road. Upon entering the site, the parcel of land wraps around to the rear of the neighbouring development, with an additional dwelling adjacent to the north west boundary of the site.
7. Due to the size of the site and the comparably small developed area, spatially, the appeal site represents a primarily open and undeveloped parcel of land. This is recognised by the appellant, who also accepts that the development would have an urbanising effect on the appeal site. This matter is difficult to dispute. The proposal would introduce 31 dwellings onto a primarily open site. The proposed layout would make use of the full extent of the site and as a consequence, built form would address the site boundaries as well as being located centrally within the site. In addition, two houses would address the main road, in a location that is currently empty. Accordingly, the form and appearance of the appeal site would fundamentally change. This would have a substantially harmful effect on the spatial openness of the site.
8. The front of the site is currently enclosed by a relatively tall means of enclosure for a front boundary. However, I do not agree that this limits the visibility of the site. The extent of the site can be appreciated when stood within the public realm. In addition, the absence of built form is readily apparent due to views of the mature trees that enclose much of the rear and side boundaries of the site. The gaps between the existing houses located to the right of the appeal site when viewed from the road also afford views across the site and towards the large trees. Accordingly, in my judgement, from a visual perspective, the appeal site is generally experienced as a large and open parcel of land which contains a single dwelling.
9. The proposal would introduce a substantial degree of built form onto the site. Accordingly, existing views between buildings would be altered to provide views of the proposed development, and the altered street frontage would also

enable the full extent of the site to be understood. Consequently, from a visual perspective, the site would be experienced in an entirely different manner, with a demonstrably harmful effect on openness.

10. Accordingly, due to the extent of the development proposed, and the very limited development that currently occupies the site, the proposal would represent a substantial departure from how the site is experienced both visually and spatially. The development would cause substantial and demonstrable harm to both facets of openness, and as a consequence, I find that the proposal is materially different to the London Road case that my attention has been drawn to. I therefore conclude that the proposal would represent inappropriate development within the Green Belt. Consequently, it would fail to accord with the Green Belt protection aims of the Framework, as well as Policy GB2 of the Chiltern District Local Plan (1997) (LP) which relates to inappropriate development.

Affordable housing

11. Policy CS8 of the Core Strategy for Chiltern District (2011) (CS) seeks at least 40% of dwellings to be affordable, with Policy CS10 seeking a mix of 70% social rented and 30% shared ownership. The proposal would provide 31 dwellings as discounted open market housing, all of which would exceed national space standards.
12. The Framework defines discounted open market housing as housing that is sold at a discount of at least 20% below local market value, and that eligibility is determined with regard to local incomes and local house prices. It also states that provisions should be in place to ensure housing remains at a discount for future eligible households.
13. Policy CS11 of the CS states that where more than 20 affordable dwellings are proposed, 20% of those dwellings should have three bedrooms with the remainder having one and two bedrooms. The proposed breakdown of house types would provide 4 x 1 bed, 13 x 2 bed, 10 x 3 bed, and 4 x 4 bed properties. Accordingly, it would not meet the breakdown required by Policy CS11. In addition, due to the proposed tenure, the proposal would also conflict with the requirements of Policy CS10. Despite this, discounted open market housing is a defined tenure for affordable housing within the Framework and in this respect, the CS is not entirely consistent with national policy.
14. The appeal has been supplemented by a Unilateral Undertaking (UU) which seeks to provide the affordable housing. However, the Council have identified a series of shortcomings within the UU which in their opinion, would compromise its suitability. Specifically, there is a concern regarding the definition of an eligible person due to the extent of annual incomes, as well as the timescales for sale and the consequent ability to be released from the discounted market sales provisions. Essentially, the Council is of the view that the provisions within the UU are far less desirable to them than if they were party to a bi-lateral agreement.
15. The appellant's frustration regarding the timings of these comments is noted. However, although the UU would initially be legally robust, I find that the shortcomings identified by the Council to be persuasive in my assessment of the appeal. Despite viability evidence that has been presented, I am not satisfied that the UU would have suitably robust provisions to ensure that the

housing would remain at a discount for future eligible households as required by the Framework. Indeed, based on the evidence before me, it would not take a particularly uncommon chain of events to enable the proposed houses to become available on the open market. This represents a fundamental flaw within the UU and accordingly, I conclude that appropriate provision would not be made for affordable housing. Consequently, the proposal would fail to comply with Policies CS8, CS10, and CS11 of the CS which establish the local requirements for affordable housing delivery.

16. However, notwithstanding this conclusion, in my judgement, the UU cannot be entirely discounted. It would be a legally binding document that would initially deliver affordable housing, albeit in a tenure and mix that would conflict with the CS. Accordingly, it is necessary to give moderate weight to this document in my assessment of the appeal.

Biodiversity

17. Paragraph 99 of Circular 06/2005 (Biodiversity and Geological Conservation – Statutory Obligations and their impact within the Planning System) 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 the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision'*. On this basis, a Preliminary Ecological Appraisal and Preliminary Bat Roost Assessment (December 2019) identified potential habitats for protected species. To supplement this, a Further Bat Survey & Badger Settle Monitoring report (December 2019) has been provided, as well as a Protected Species Survey Report (August 2020).
18. Based on the evidence before me, the information relating to Bats and Badgers complies with the requirements of the circular set out above. However, the information is less clear insofar as it relates to Great Crested Newts. The Protected Species Report confirms the likely presence of Great Crested Newts near the appeal site but not all ponds within the vicinity of the site were surveyed. Moreover, the nature of the survey does not confirm the extent of the likely populations. The survey does identify that the proposal would have a likely impact on Great Crested Newts, and it also recommends that the necessary licence be obtained. Nevertheless, because the eDNA results do not provide greater detail on likely population, I find that the full extent of the effect of the proposal has not been satisfactorily demonstrated.
19. I note the suggestion from the appellant that further information could be provided by way of condition, however, the requirements of the Circular are clear, and based on the evidence before me, I am not satisfied that they have been met. Accordingly, due to this uncertainty, the use of a condition would not meet the test of reasonableness.
20. Regarding net gains for biodiversity, the proposal would create habitats through the proposed landscaping including wetland, tree and shrub planting, wildlife seeding and a green roof. Accordingly, the variety of habitat within the site has the potential to be improved through the proposed development. Although the existing site is largely undeveloped and therefore provides good habitat potential, I am satisfied that the variety in the proposal and the ability to manage it through a suitably worded condition could result in a net gain in biodiversity.

21. However, for the reasons identified above, the proposal has not adequately identified the full extent of protected species that would be affected by the development. As a consequence, I conclude that the proposal would have a harmful effect on biodiversity. It would therefore fail to comply with Policy CS24 of the CS which seeks to conserve and enhance biodiversity within the District. It would also fail to comply with the requirements of the Circular and the Framework.

Character and Appearance

22. The principal feature of the development would see houses arranged around a central courtyard. In addition to this, two houses would front onto the main road and a terrace of four properties would be situated adjacent to the north west boundary of the site. Architecturally, the proposed dwellings would be of an overtly contemporary appearance. There would be a mix of house types that would provide mono-pitch roofs, as well as pitched and flat roofs, and facing materials would include standing seam cladding as well as render.
23. Notwithstanding the concerns identified above, the modern idiom proposed was supported by the Council who concluded that the architectural approach to the development was generally well considered. The proposed frontage would continue the series of detached dwellings, and within the site, the proposed layout has the potential to generate an interesting central space, as well as visually interesting street scenes.
24. The Council did not refuse planning permission on the basis of a design related concern and based on the evidence before me, I have no reason to disagree. Despite this, I do agree that the proposed layout would have the potential to generate some awkward rear elevations, particularly those backing on to the central courtyard. However, in my judgement this is a matter that could be satisfactorily resolved.
25. Accordingly, I conclude that the proposal would not harm the character and appearance of the area. It would therefore comply with Policy GC1 of the LP which seeks a high standard of development.

Sustainable transport

26. Based on the evidence before me, the Highway Authority (HA) are broadly content with the proposal, however, due to the location of the site, they wish to promote the use of alternative means of transport to that of the private car. As a consequence, due to the lack of cycle infrastructure within the village centre, as well as at the local leisure centre and The Chalfonts Community College, they seek a financial contribution towards the provision of sheltered Sheffield cycle stands. The UU contains provisions for this contribution.
27. Due to the location of the site, and the justification that has been put before me on this matter, I am satisfied that the contribution would comply with Regulation 122 of the Community Infrastructure Regulations 2010 (CIL Regulations), as well as the requirements identified within the Framework. The Council are not party to the UU and cannot therefore be obliged to spend the contribution in the manner identified. However, I have no reason to consider that the contribution would not be put to the use proposed and for this specific contribution, the appellant should not be penalised for this limited risk.

28. The HA also seek a financial contribution towards a dial-a-ride service to support local community transport. However, based on the evidence before me, it is unclear what the contribution would be used for and whether or not it would supplement an existing service. In the absence of such information, I am not satisfied that this contribution meets the requirements of the CIL Regulations or the Framework.
29. However, in light of the necessary contribution towards cycling infrastructure, I conclude that an appropriate mechanism exists to promote sustainable transport opportunities. Consequently, it would comply with Policy CS31 of the CS which relates to infrastructure provision.

Other Considerations

30. Through the Self-build and Custom Housebuilding Act (2015) (the Act), the Council has a duty to maintain a register and to provide a sufficient number of potential plots to satisfy the demand. Based on the evidence before me, the Council has not fulfilled this requirement in recent times. The description of development states that the proposed dwellings would be for custom build, albeit that this matter is not referenced within the submitted UU. However, on the basis of the description of development, the proposal would make a substantial contribution to the required number of plots.
31. My attention has been drawn to a decision in Chorley whereby the Inspector concluded that the provision of 10% of the proposed dwellings for self-build purposes should attract significant weight due to the demand for such housing. Although I find that the lack of reference to the proposed tenure within the UU to be a shortcoming of the proposal, due to the requirements of the Act, I also give the generous supply of self-build housing significant weight in favour of the proposal.
32. More generally, the proposed houses would make a reasonable contribution towards local housing supply, as well as making a positive contribution to the national objective to boost the supply of homes. Therefore, due to the moderate scale of the proposal, I give this matter moderate weight. For the reasons identified above, I also only give moderate weight to the provision of affordable housing. The economic benefits that the proposal would bring in terms of construction jobs and ongoing local expenditure, and the recreational and environmental benefits that could be secured by the proposed development, also weigh in favour of the proposal. However, due to the scale of the development, I only give these matters limited weight.
33. Paragraph 148 of the Framework requires that substantial weight is given to any harm to the Green Belt, and that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. On this basis, I have found that the proposal would result in significant harm to the openness of the Green Belt, both visually and spatially. In light of the requirements of Paragraph 148 of the Framework, this weighs extremely heavily against the proposal.
34. In favour of the appeal, I give substantial weight to the provision of self-build housing and attribute weight to the matters identified above accordingly. However, in my view, to clearly outweigh something, as is required by the Framework, means that there should be a demonstrable and meaningful

difference in the weight attributed to two matters. Due to the fundamental concerns in relation to the harm to the Green Belt, I give very substantial weight to this matter. Accordingly, the other considerations in favour of the proposal would not clearly outweigh the harm that I have identified.

Consequently, I conclude that the other considerations do not amount to the very special circumstances necessary to justify the development. In this regard, despite the five-year housing supply position of the Council, I am also satisfied that footnote 7 to Paragraph 11 of the Framework has the effect of nullifying the presumption in favour of sustainable development. This is because the application of policies provides a clear reason for refusing the proposal.

Conclusion

35. The proposal would not harm the character and appearance of the area. However, in my judgement this weighs neutrally in my assessment of the appeal as it is not a direct benefit of the proposal. I also find that although the proposed architecture is modern and potentially interesting, this does not alter my findings in relation to the weight that should be attached to the effect of the proposal on character and appearance. The proposal would also promote sustainable transport opportunities, which attracts some limited weight in favour of the appeal.
36. However, I have also found that the proposal would have a harmful effect on biodiversity, and that very special circumstances do not exist to justify the development. These matters are fundamental concerns with the proposal and accordingly, for the reasons identified above, the appeal should be dismissed.

Martin Chandler

INSPECTOR