



Appeal Decision

Site visit made on 4 March 2024

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th March 2024

Appeal Ref: APP/K0425/W/23/3324425

Land adjoining Bangalore House and Falcon Court, Wycombe Road, Stokenchurch, HP14 3RG

- 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 Mr R Potyka of RAP Building and Developments Ltd against the decision of Buckinghamshire Council.
 - The application Ref 20/07388/FUL, dated 9 September 2020, was refused by notice dated 18 January 2023.
 - The development proposed is the demolition of the existing outbuildings and the erection of a detached building comprising 11 units of age-restricted (over-65) accommodation with parking and amenity space.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 22 November 2023, all designated Areas of Outstanding Natural Beauty (AONBs) in England and Wales became "National Landscapes". AONBs have been renamed and rebranded as National Landscapes to reflect *"their national importance: the vital contribution they make to protect the nation from the threats of climate change, nature depletion and the wellbeing crisis, whilst also creating greater understanding and awareness for the work that they do"*. However, the legal designation and policy status of these areas are unchanged, so I have proceeded on this basis.
3. A revised National Planning Policy Framework (the Framework) was published by the Government on 19 December and updated on 20 December 2023 and accompanied by a written ministerial statement (WMS). I have familiarised myself with the content of the revised Framework and the accompanying WMS and none of the revisions to the Framework would be material to this appeal. Having considered the revisions and in light of the principles of natural justice, in this instance I do not consider it necessary to invite any submissions from the parties on the revised Framework. Any references to the Framework hereafter in this decision are to the latest version.

Main Issues

4. The main issues are the effect of the proposal on:
 - The character and appearance of the Stokenchurch Conservation Area and the Chilterns AONB;
 - The living conditions of future residents;

- The effect on ecology and biodiversity of the site;
- The sustainability objectives; and
- Whether there is suitable provision for affordable housing.

Reasons

Character and appearance

5. The appeal site forms an open plot of land located between Bangalore House and Falcon Court on Wycombe Road (A40). The area is mainly residential albeit it is interspersed with commercial and office developments along the A40, nevertheless the surrounding area has a pleasant suburban feel. The site is located in the Stokenchurch Conservation Area (SCA), as shown on the submitted Conservation Area Map. As such, I have a statutory duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, (the Act) to pay special attention to the desirability of preserving or enhancing the character or appearance of the SCA.
6. The Framework advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. Paragraph 205 of the Framework states 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. The more important the asset, the greater the weight should be.** Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. Paragraph 212 of the Framework further requires new development within the setting of a conservation area, to enhance or better reveal its significance. The Framework defines the setting of a heritage asset as **"the surroundings in which a heritage asset is experienced."**
7. The significance of the SCA is principally derived from the use of traditional materials and the appropriate scale of historic dwellings. Small terraces and cottages are tightly packed around common land, interspersed with public houses and places of worship. The spacious common appears as the central feature of the SCA and the surrounding informal layout of historic development contributes positively to the character of the area. To the east of the SCA larger detached dwellings, which include the non-designated heritage assets (NDHAs) of Bangalore House and Falcon Court. These were constructed in the 19th Century highlighting the social structure and historic narrative of the village.
8. The appeal site is located between these NDHAs which are detached properties located on generous plots, providing a more spacious feel in this section of the SCA. Part of the significance of these two prominent buildings is their high-status appearance and location within large gardens. The brick wall along the front boundary serves to enhance and levitate the importance of these buildings within the landscape. However, visibility from the public realm is limited due to this enclosure and the trees and soft landscaping to the front.
9. The development is U-shaped, designed around a courtyard and is two storeys in height, albeit the upper floor accommodation is incorporated within the roof space. The proposal comprises 11 units designed to appear as inward facing Alms houses. The design approach appears to stem from a desire to minimise

- the scale and height of the proposal, in order that it would appear subservient to the adjoining NDHAs.
10. However, the large footprint of the building and the location of the parking area to the front of the site would occupy a significant proportion of the site, providing limited separation distances between the proposal and the NDHAs. Furthermore, the U-shaped building extends almost the length of the rear garden, finishing in close proximity to the rear boundary of the site. Whilst it is acknowledged that the appeal site is generous in proportions, the overall scale and positioning of the development would nevertheless appear cramped within the plot. Furthermore, the footprint and position of the proposal, significantly set back from the roadside would conflict with the existing local character.
 11. The density of the development also appears significantly increased in relation to that of the SCA as a whole. Part of the significance of the SCA are the more spacious plots to the east which typifies the historic pattern of development as one moves away from the more tightly packed cottages around the common. The incorporation of 11 units and the associated off-street car parking and servicing paraphernalia, would provide a density that is unrepresentative, appearing as an overdevelopment of the site.
 12. Nevertheless, I would acknowledge the articulation, materials and architectural detailing of the proposal appear to provide reference and design cues from its surroundings, and that the retention of the soft landscaping at the front would help screen the proposal from public vantage points. Be that as it may, overall the proposal does not respond appropriately to its surroundings.
 13. Whilst paragraphs 128 and 129 of the Framework encourage efficient use of land, in seeking to do so the proposal results in an insensitively designed development, detracting from historic significance and harming the character and appearance of the SCA and the adjoining NDHAs.
 14. The appeal site is also located within the Chilterns AONB, and paragraph 182 of the Framework states that great weight should be given to conserving and enhancing landscape and scenic beauty in these areas. The conservation and enhancement of cultural heritage are also important considerations in AONBs and have great weight. Proposal should be sensitively located and designed to avoid or minimise adverse impacts on these designated areas. Given my findings above, the proposal would also adversely affect the cultural heritage of the AONB.
 15. There would be some harm to the SCA arising from development within its setting and similarly for the NDHAs. As such, the proposal would fail to preserve or enhance the character or appearance of the SCA and would harm its significance. I attach considerable importance and weight to the desirability of avoiding any such harmful effect in accordance with Section 72(1) of the Act.
 16. The harm the proposal would cause to the significance of the SCA would be less than substantial. Paragraph 208 of the Framework advises where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

17. I have had regard to the public benefits of the appeal scheme, which would provide 11 units of age-restricted accommodation in an area with an identified need for this type of accommodation. The proposal would also provide limited associated economic and social benefits. However, the appeal scheme would fail to preserve the character and appearance of the SCA and setting of the NDHAs, to which I must attach importance and great weight. Accordingly, the public benefits would not outweigh the less than substantial harm that would be caused to the significance of the heritage assets identified above.
18. As such, the proposed development fails to preserve or enhance the character or appearance of the SCA, the cultural heritage of the Chilterns AONB and the setting of the NDHAs. The proposal would therefore be contrary to Policies CP9, CP10, DM30, DM31 and DM32 of the Wycombe District Local Plan (WDLP), adopted August 2019. It would also fail to accord with the aims and objectives of the Housing Intensification Supplementary Planning Document (HSPD) adopted October 2011 and the Residential Design Guide Supplementary Planning Document (RSPD) adopted June 2017 which collectively seek development to be of high-quality design which conserves, protects and enhances the Chilterns AONB, the character and appearance of the area, as well as making a positive contribution to the distinctiveness and significance of the historic environment including its heritage assets, amongst other things. Nor would it accord with the relevant paragraphs in the Framework.
19. However, I do not find conflict with WDLP Policy DM34 as this policy is principally concerned with delivering green infrastructure and biodiversity and is largely irrelevant to this particular matter.

Living conditions of future occupiers

20. Units 5 and 11 of the proposal would provide two-bedroomed units which in terms of access to outlook and light, are both served by roof lights only. Whilst these openings would provide a degree of light and ventilation, any outlook from these openings would be severely restricted to oblique views of the sky. All new dwellings, regardless of occupant demographics should have an adequate outlook to ensure that development is of a high design quality and to ensure residential accommodation standards are maintained. The lack of an appropriate outlook in this case highlights the accommodation standards would not be considered as acceptable.
21. It is acknowledged the provision for flank windows is restricted, due to an increased sense of overlooking and loss of privacy, given the location of the proposal and its proximity to the neighbouring properties. Nevertheless, this should not undermine the quality of life or be at the expense of acceptable living standards. The inadequate outlook from Units 5 and 11 would be significantly below the standard of living conditions that future occupiers could reasonably expect from main habitable rooms.
22. Consequently, the proposed development would have an unacceptably harmful effect upon the living conditions of its future occupiers, with particular reference to outlook. The proposal is therefore contrary to the relevant provisions of Policy DM35 of the WDLP; Section B8 of the RSPD and Q3.10 of the HSPD which collectively expects planning decisions to ensure high quality living environments, including reasonable outlook from habitable rooms to ensure healthy living conditions and create better places to live. The proposal would also conflict with the Framework which indicates that higher densities

should not be at the expense of acceptable living standards, amongst other things.

Ecology and Biodiversity

23. WDLP Policies CP10 and DM34, among other things, seek to ensure that development makes provision for and demonstrates that existing green infrastructure and biodiversity assets will be maximised, and development will deliver long lasting measurable net gains in biodiversity. Further guidance is set out in the Biodiversity Net Gain - Supplementary Planning Document (BSPD) adopted July 2022 which requires applicants to follow the national requirement to ensure their development would result in a biodiversity net gain.
24. An Ecological Report¹ has been submitted as part of the appeal, which both parties agree cannot demonstrate the proposal can deliver biodiversity net gain on-site. Furthermore, there is an absence of adequate information in respect to measures used in following the mitigation hierarchy. As such, there is insufficient information to ensure that the proposal is capable of delivering the aims of the WDLP policies or guidance contained within the BSPD. Given this uncertainty, I am not satisfied that it would be appropriate to defer consideration of this matter to a planning condition.
25. Even if I was to accept that biodiversity net gain could not be achieved on-site and that an offset contribution was applicable, I have not been presented with a suitable planning obligation such as a legal agreement that would secure any off-site contribution.
26. Accordingly, in the absence of sufficient information and evidence, it has not been demonstrated that the proposal would not result in harm to biodiversity, and I must take a precautionary approach. It would therefore conflict with WDLP Policies CP10 and DM34, Policy DM14 of the Wycombe District Council Adopted Delivery and Site Allocations Plan for Town Centres and Managing Development adopted July 2013, and the aims and objectives of the BSPD, which collectively seek to protect and enhance biodiversity.

Sustainability

27. WDLP Policies CP12 and DM33 among other things, seek to integrate renewable technologies into residential developments through the use of measures such as heat pumps and photo voltaic (PV) cells. The appellant highlights that the proposal will utilise a number of fabric first measures, and will also include a combination of either air or ground source heat pumps, together with PV cells; electrical vehicle charging points; and water efficiency measures to comply with Building Regulations requirements.
28. Whilst I acknowledge there is no policy requirement for the development to achieve a minimum on-site carbon reduction below the Building Regulations baseline, I have not been provided with any specific information in respect to the use of potential renewable technology and their specifications. Details requiring appearance, positioning, noise, vibrations, etc would be required given the sensitive location of the proposal in respect to the SCA, Chilterns AONB and the proximity of neighbours.

¹ Prepared by AAe Environmental Consultants Ref: 203364 dated February 2022

29. Without these details, I cannot be confident that suitable mitigation could be provided to prevent adverse effects on character and appearance or the living conditions for neighbouring residents. Given this uncertainty, I am not satisfied that it would be appropriate to defer consideration of this matter to a planning condition.
30. Accordingly, I am unable to conclude that the scheme would be able to provide adequate renewable and low carbon technologies to the development, to address carbon emissions and climate change. The proposal would therefore not accord with WDLP Policies CP12 and DM33 and Section 14 of the Framework.

Affordable Housing

31. WDLP Policy DM24 requires development proposing 10 or more net dwellings to provide 35% on-site affordable dwellings. Part (iv) of Paragraph 6.34 of the WDLP states that all requirements for affordable housing will be subject to the physical circumstances of the site and economic viability.
32. Affordable housing need is not restricted to certain age groups and a proposal for age restricted housing does not therefore negate the need to provide **affordable housing. The Council's Housing Register also sets out there were 71** households (mostly single people) on the Housing Register headed by a person aged 60+ who were in need of care and medical support.
33. Furthermore, the evidence before me highlights that the population of older persons is rapidly growing in Buckinghamshire. The Housing and Economic Development Needs Assessment (HEDNA) identified the increase in the over 75 age groups and the findings of the HEDNA also informed the affordable housing policy requirements in the Local Plan, which apply to all forms of housing in schemes of 10 or more units as detailed above.
34. The proposal does not make any provision for affordable housing either on site, or through an off-site contribution. No case has been made to demonstrate that the site is not viable if affordable housing were to be provided. In addition, **despite the appellant's indication of a willingness to enter into a planning** obligation, there is no mechanism before me to secure this.
35. Consequently, the proposed development would not make adequate provision for affordable housing contrary to WDLP Policy DM24 and the Planning Obligations Supplementary Planning Document, adopted March 2020.

Other Matters

36. My attention has been drawn to other decisions² to show inconsistency in decision making by the Council. I am not aware of the full circumstances and/or planning history associated with these cases, but it is evident from the limited details presented that they turned on their own particular merits. I therefore give these examples limited weight, as I cannot be certain that these are directly comparable. In any case, each scheme must be considered on its own merits. While consistency in decision making is important, ultimately, applications should be determined in the light of the specific circumstances and context of each case.

² Buckinghamshire Council Planning Refs: 21/07486/REM and 21/07347/FUL

Conclusion

37. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that a determination is made in accordance with the development plan unless material considerations indicate otherwise.
38. The proposal would provide 11 units of age-restricted accommodation in an area with an identified need and would provide limited associated economic and social benefits as a direct result of the development.
39. I have found that the proposed development would result in less than substantial harm to the significance of the SCA **and NDHA's**, and I have given considerable importance and great weight to the desirability to preserve the heritage assets and their setting. When weighed against the public benefits of the proposal, I have found that the less than substantial harm would outweigh the public benefits arising from the proposed development. Furthermore, I have found that the proposal harms living conditions of future residents, biodiversity, sustainability, and the provision of affordable housing which all attract substantial weight against the scheme.
40. Taking all of the above into account, the extent to which there would be adverse impacts of granting planning permission, relating to my findings on the main issues above, would significantly and demonstrably outweigh the above benefits of the proposed development, when assessed against the policies in the Framework and the development plan as a whole. Furthermore, there are no other relevant material considerations that would alter my decision that the appeal should be dismissed.

Robert Naylor

INSPECTOR