



Appeal Decision

Site visit made on 26 April 2024

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th May 2024

Appeal Ref: APP/J0405/W/23/3332228

Watermead Estate, Buckingham Road, Aylesbury HP19 0GF

- 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 Compton Group against the decision of Buckinghamshire Council North Area (Aylesbury).
 - The application Ref is 17/00771/APP.
 - The development proposed is development of 21 no. two-bedroom flats with parking.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appeal is accompanied by a set of amended drawings. These include changes such as the relocation of proposed car and cycle parking to a new basement level beneath the development, with associated lift access, and reconfiguration of parking spaces and landscaping to the rear of the development. Taken together, these changes would amount to a fundamental change to the proposal and could cause procedural unfairness by depriving those who should have been consulted of the opportunity to make representations on these changes. As such, these drawings have not been taken into account in reaching this decision.

Main Issues

3. The main issues are:
 - The effect of the proposal on the character and appearance of the area;
 - Whether the proposal would provide a satisfactory standard of accommodation for its future occupants, with particular regard to outdoor amenity space, the size of accommodation, noise and accessibility;
 - Whether the proposal would make appropriate provisions to address climate change;
 - Whether the proposed unit types are appropriate with regard to identified need, and;
 - Whether the proposal would make appropriate contributions towards affordable housing and infrastructure.

Reasons

Character and Appearance

4. Watermead is described as an urban extension to the north of Aylesbury. It is visually distinct from other nearby residential areas, with a separate access from the A413 and set around a substantial lake. The appeal site lies centrally within the wider development and forms part of the car park which surrounds the 'village centre' which includes a mix of uses with residential accommodation above. This village centre is set adjacent to the lake and immediately north of the main access road into Watermead, making it a focal point of the estate both functionally and visually. The appellant accepts the appeal site occupies a prominent position at the junction of several spinal roads.
5. The existing trees on the appeal site are the subject of a tree preservation order (TPO)¹ which includes 39 trees and 10 groups of trees around the village centre car park. These trees, together with the extensive grass verges which surround the car park, as well as those on the opposite sides of the roads, contribute positively to the open and verdant character of this part of Watermead, which make it visually distinct from the areas of higher density housing which surround it.
6. The proposal would result in the loss of a substantial number of those protected trees in the south eastern part of the car park. Even though some of those trees are of a lower quality and may be relatively young, they nonetheless make a positive contribution in terms of visual amenity. While other trees are proposed to be retained, many of these are close to the proposed buildings and likely to experience significant pressure for pruning given their proximity to windows. Based on the evidence, it cannot be established with certainty that these trees would not also be damaged or lost as a result of the proposal.
7. The replacement planting of young trees would inevitably take time to become established and to make a similar contribution to those which exist. Their potential for future growth would also be affected by the size of some of the grass verges and again, proximity to the development which would create pressure for pruning. In light of these circumstances, any benefits in terms of diversity of age classes and tree succession would be limited. Overall, the proposal would result in the loss of a significant number of trees and the proposed replacement planting has not been adequately demonstrated to be appropriate. In combination, these factors would result in significant harm to the verdant qualities of the area.
8. Turning to the proposed buildings themselves, these would be set back from the edge of the road behind grass verges and proposed planting. As such their position in relation to the street would be similar to those groups of buildings in the surrounding area.
9. The existing residential properties which face towards the village centre form small groups of varied form and character which add to the visual interest of the setting of the village centre and spinal routes. They include blocks of flatted development as well as terraced rows of varying length. Their eaves heights and ridge levels are also varied to some degree, however the majority read as two storey buildings with accommodation at the second floor level contained within the roof slopes. This includes at Pipit Gardens, where the top storeys appear as mansard additions, visually distinct from the floors beneath and separated by an eaves level above the first floor.

¹ 23/00004/TPO

10. The proposal would similarly provide a group of buildings which would appear visually distinct to other properties nearby. However, in contrast, its eaves height would be continuously at a higher level and the second floor windows would appear as a continuation of the elevations below, accentuating the presence of the top storey. Together these features would result in the proposal appearing substantially taller and more visually prominent than the other surrounding development. The narrow sections of lowered ridge height would do little to relieve the bulk and height of the development and, as such, the buildings themselves would fail to respect their context.
11. While the central tower of the Watermead village centre has four storeys, this rises significantly above the prevailing building heights and is reflective of its function as a focal point to the wider development. As such its circumstances are different and it does not provide a justification for the scale of the development proposed. There is little evidence as to how much the proposed buildings would be screened by the new planting at the road edge. However, given the concerns set out above, any screening is unlikely to be significant nor sufficient to mitigate or reduce the visual harm arising from the scale of the buildings. The scale of the living walls would similarly not reduce these effects.
12. For the reasons set out, the proposal would cause visual harm to the character and appearance of the area. It would conflict with policies BE2 and NE8 of the Vale of Aylesbury Local Plan 2013- 2033, adopted 2021 (the LP), insofar as they require development to respect and complement the physical characteristics of the site's surroundings and local distinctiveness, and resist development that would result in the unacceptable loss of, damage to, or threaten the continued well-being of trees. The proposal would also conflict with the objectives of the National Planning Policy Framework (the Framework) where it requires development to be sympathetic to local character including the surrounding built environment, and insofar as it acknowledges the important contribution of trees to the character and quality of urban environments.

Standard of Accommodation

13. Policy BE3 of the LP requires development to achieve a satisfactory level of amenity for future residents. The appellant considers the lack of private amenity space for future occupiers could be addressed by solutions including balconies facing the road, and demarcation of space at the ground floor level using railings. Nonetheless, those features do not form part of the appeal scheme and, given their likely effects on the external appearance of the buildings and the character of surrounding grass verges, it would not be appropriate to condition such details for consideration at a later date. On the basis of the drawings before me, the proposal would not provide private outdoor space for future occupiers.
14. Several of the ground floor units would be close to parking bays at the rear. However, these units would have windows within multiple elevations and the proximity to parking spaces at the rear, alone, would not give rise to an unacceptable standard of accommodation. The size of some of the proposed units falls below the Nationally Described Space Standards, although the Council accept that standard does not form part of the development plan. In any event, the quality of the internal spaces, by reason of their layout and

outlook in multiple directions, would not feel unduly oppressive or cramped when considered as a whole.

15. Policy H6c of the LP requires development to meet and maintain high standards of accessibility so all users can use them safely and easily, and sets a minimum requirement for accessible and adaptable standards in dwellings. The appeal scheme does not show adequate provision for these standards and generalised references to the inability of low rise flatted development to achieve the standard do not satisfactorily demonstrate that it would be unviable for this particular scheme to do so.
16. In conclusion on this main issue, the lack of any designated outdoor space would create unacceptable living conditions for future occupiers and it has not been satisfactorily demonstrated that the development could not provide the level of accessibility sought by the development plan. The proposal would conflict with LP policies BE3 and H6c, as set out. It would also conflict with the objectives of the Framework, in particular where it seeks to create places that are inclusive and accessible, and which promote health and well-being, with a high standard of amenity for future occupiers.

Climate Change

17. Policy C3 requires, among other things, that all development schemes achieve greater efficiency in the use of natural resources, including measures to minimise energy use, improve water efficiency and promote waste minimisation and recycling. On development proposals for over 10 dwellings it requires an energy statement to demonstrate consideration of its energy hierarchy, which relates to both sustainable design and construction methods.
18. The proposal would include solar panels to some roof slopes, and other measures, including electric vehicle charging points, could reasonably be secured by condition if the proposal were otherwise acceptable. However there is not evidence to suggest how the hierarchy in the policy has been addressed, which considers matters beyond those proposed. As such considerations could give implications to the external appearance of the site, the buildings and their fabric, it would not be reasonable to condition an energy statement. Given the concerns relating to the new trees set out above, the proposed planting attracts little weight as a climate change benefit.
19. The proposal fails to demonstrate adequate consideration of measures to achieve carbon emissions reductions and address climate change, contrary to Policy C3 of the LP. The Council accept that electric vehicle charging points could be reasonably secured by condition given the location and layout of parking, and the proposal would not conflict with Policy T8.

Unit Mix

20. The LP summarises the required mix of market housing need by type and size. The level of need across varying unit types and sizes varies significantly and the majority of need is for houses, with a much smaller need for flats. While some level of need clearly exists for two bedroom flats, Policy H6a expects new residential development to provide a mix of homes to meet housing need, which would not be achieved by this proposal. No substantive evidence has been provided to suggest why a mix which greater reflects the identified need could not be provided here.

21. While rental values of two bed flats have increased significantly, that does not demonstrate that this is necessarily a house type of more significant demand, nor does it cast any significant doubt on the Council's identified housing need. While there is the possibility that the proposal could be attractive to people downsizing from three bed houses, there is insufficient certainty that this would be the case here.
22. Based on the evidence before me, the proposal would not provide an appropriate mix of housing types and sizes having regard to the Council's identified needs, contrary to Policy H6a of the LP and the Framework insofar as it seeks housing to include an appropriate mix of housing types for the local community. The contribution of the proposal to the housing stock in more general terms is discussed below.

Affordable Housing and Infrastructure

23. The LP sets out a need for the former Aylesbury Vale district area to accommodate 4,200 affordable homes over the plan period. In order to meet that need, Policy H1 sets out that residential developments of eleven or more dwellings will be required to provide a minimum of 25% affordable homes on site.
24. The appellant would be willing to enter into a legal agreement, and suggests that a sufficient number of units may be capable of achieving the required standard for affordable homes. However, there is not a mechanism before me to secure any affordable housing if the appeal were otherwise allowed. In the absence of such a mechanism or agreement, the proposal would fail to provide affordable housing and would conflict with LP Policy H1 and the Framework insofar as it seeks housing to reflect the needs of those requiring affordable housing.
25. Policies I2 and I3 of the LP seek financial contributions on developments of more than ten units towards community facilities, sports and recreation to meet the needs arising from new developments. A need for contributions towards education facilities has also been identified by the Council. The appellant does not dispute the need for the contributions, however, there is some discrepancy between the parties as to the amounts required. In any event, there is no mechanism to ensure that those contributions would be paid, or spent for those purposes, if this appeal were to be allowed. As such the proposal would fail to secure appropriate contributions to infrastructure and so would be in conflict with policies I2 and I3. Given the uncertainty surrounding agreement of these matters, together with the advice in the Planning Practice Guidance, a condition would not be an appropriate means to secure those contributions.
26. Turning to green infrastructure, LP Policy I1 states that new housing developments of more than ten units or which have a combined gross floorspace of more than 1,000sqm will be required to meet the accessible natural green space standards in an appendix to the LP, to meet the additional demand arising from new residential development. There is no substantive evidence before me that the proposal complies with that requirement.
27. Instead the proposal would result in the loss of some 400sqm of accessible natural green space located to the south of the Watermead Inn in order to provide parking. This is a modest sized area of grass, partially under the

canopies of existing trees which I understand to be utilised by wildlife as well as visitors to the public house. I have no strong reason to consider this does not provide an area of accessible natural green space for the purposes of Policy I1. There is insufficient evidence to substantiate that the use of grasscrete would be successful in achieving the same objectives for accessible natural green space and, together the loss of the existing accessible natural green space, and the lack of provision to in response to the additional pressures created by the proposal, creates conflict with Policy I1.

Other Matters

28. The proposal would fail to comply with the policies of the development plan as set out above. The effects on the character and appearance of the area, together with the failure to provide acceptable living conditions for future occupants, address climate change and housing mix, as well as the failure to provide affordable housing and contributions to infrastructure would be significant and long lasting, and would present conflict with the development plan and the Framework as set out. As such, those harms attract substantial weight.
29. The proposal would provide the benefit of new housing which would contribute towards the national objective to boost the supply of homes. These would be within an existing built-up area with good accessibility to services and facilities including public transport, and would be on a site which is understood to be brownfield. The Framework acknowledges the need to prioritise brownfield land and the contribution that small and medium sized sites can make to meeting the housing requirement of an area, and encourages local planning authorities to support the development of windfall sites. An active frontage onto the road edge would also be introduced, promoting natural surveillance. Together these are benefits of the scheme which attract considerable weight.
30. The proposal could facilitate better management of the car park through increased parking restrictions or reallocation of spaces, in turn helping to manage anti-social behaviour and unwelcome uses of the car park by commercial or abandoned vehicles. While these would undoubtedly be benefits, it is not apparent that this proposal is necessary to facilitate these changes. While the appellant may be an SME, there is little supporting evidence which would lead to more than little weight being given to this matter as a factor weighing in favour of granting planning permission.
31. The proposal would provide a higher density development than other parts of Watermead. However, the Framework is clear that decisions should support development that makes efficient use of land taking into account other matters which include the identified need for different types of housing, capacity of infrastructure and the desirability of maintaining an area's prevailing character and setting. As harm has been identified in respect of these associated issues, the Framework's objectives in respect of densities do not add weight in favour of the proposal. Overall, these benefits do not amount to material considerations of sufficient weight to outweigh the conflict identified with the development plan.
32. The above assessment demonstrates that there are policies in the development plan relevant to the proposal and it is not in dispute that the Council are able to demonstrate a five year land supply for housing. However, even if the provisions of paragraph 11d) of the Framework were relevant to the proposal,

the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

33. The appellant has demonstrated a willingness to make changes to the proposal. However, the appeal procedural guide is clear that the appeal process should not be used to evolve a scheme, and the reasons why amended drawings and recommended conditions could not be accepted here are set out above. The appellant has also engaged with the Council through pre-application discussions, however the Council stated in its email response that this advice was given on an informal basis and it did not bind the Council to any decision. A very significant delay was also experienced in the determination of the application and during that period the development plan was subject to change, in some cases creating additional requirements for the proposal. Despite those regrettable circumstances, the appeal decision must be made in light of the development plan at this time.

Conclusion

34. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given, the appeal is dismissed.

C Shearing

INSPECTOR