



Appeal Decision

Site visit made on 9 October 2019

by Martin Chandler BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th November 2019

Appeal Ref: APP/N0410/W/19/3227377

Evreham Lodge, 100 High Street, Iver SL0 9PJ

- 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 Amit Chohdha against the decision of South Bucks District Council.
 - The application Ref PL/18/2261/FA, dated 14 June 2018, was refused by notice dated 2 November 2018.
 - The development proposed is described as the demolition of existing buildings and construction of 10 residential units contained within three blocks, with associated parking and landscaping.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Within the Council's reasons for refusal, no reference has been made to the Draft Chiltern and South Bucks Local Plan (2036). However, within the Council's statement of case, reference has subsequently been made to this document, with the suggestion that due to its more advanced stage, it should now be a material consideration in the assessment of this appeal.
3. Paragraph 48 of the National Planning Policy Framework 2019 (the 2019 Framework) states that weight can be given to relevant policies in emerging plans according to the stage of preparation, the extent to which there are unresolved objections, and the degree of consistency with the Framework itself. Based on the evidence before me, the consultation period has only recently finished, and the plan has yet to be examined. It is therefore at a relatively early stage of preparation and I am not aware of the extent of any objections. Consequently, I have not afforded any weight to the emerging plan and have therefore assessed the appeal against the requirements of the South Bucks District Local Plan (1999) (LP) and the South Bucks Local Development Framework, Core Strategy, Development Plan Document (2011) (CS).
4. Additionally, since the original planning application was submitted, the 2019 Framework has been published. However, since that point and through the course of this appeal, both parties have had ample opportunity to address this matter in their submissions. The 2019 Framework is the most up-to-date national policy and consequently, I have assessed the appeal against its requirements.

Main Issues

5. The main issues are:

- i) whether the proposal makes suitable provision for affordable housing, having regard to the requirements of local and national policy;
- ii) the effect of the proposal on highway safety;
- iii) whether the proposal makes suitable provision for sustainable drainage;
- iv) whether the proposal makes suitable provision for decentralised energy supply, having regard to the requirements of local and national policy;
- v) the effect of the proposal on the character and appearance of the area, having particular regard to the demolition of the existing building; and
- vi) whether the proposal makes suitable provision for waste collection.

Reasons

Affordable Housing

- 6. Paragraph 63 of the 2019 Framework states that provision of affordable housing should not be sought for residential developments that are not major developments. The Framework defines major development as development where 10 or more homes will be provided, or where the site has an area of 0.5 hectares or more. The proposal would see the existing house demolished and the erection of 10 new dwellings. Therefore, whilst there would be a net gain of 9 dwellings, the proposal would provide 10 houses. Consequently, regardless of the net gain figure, I am satisfied that the requirements of the 2019 Framework are engaged.
- 7. Core Policy 3 of the CS states that at least 40% of all dwellings in schemes of 5 units and above (gross), should be affordable. In this respect, the policy is not consistent with the 2019 Framework. However, the objective of securing affordable housing is consistent with national policy. Consequently, whilst the threshold for provision is different, because the proposal meets the national threshold, Core Policy 3 of the CS remains relevant in my assessment of the appeal. However, due to the inconsistency with the 2019 Framework, I do not afford the policy full weight.
- 8. Paragraph 64 of the 2019 Framework states that where major development involving the provision of housing is proposed, planning decisions should expect at least 10% of the homes to be available for affordable home ownership. The proposal would make no provision for affordable housing and would not accord with any of the exceptions provided within the 2019 Framework. Although the proposed houses would likely cost less than the existing property due to the mix of units, this would not make them affordable houses as defined by the 2019 Framework.
- 9. Consequently, having regard to the requirements of local and national policy, I conclude that the proposal would fail to make suitable provision for affordable housing. This is a direct conflict with national policy and consequently, it represents a significant and demonstrable adverse impact of the development. It is therefore a matter which weighs very heavily against the appeal.

Highway safety

10. It is common ground that the proposal would increase traffic movements to and from the site. Whilst the exact figure has been disputed, to cater for the proposed intensification, the development would alter and widen the existing vehicular access to the site. However, despite a landscaped buffer between the access and the eastern boundary, the boundary enclosure would remain unchanged. This is formed by a tall red brick wall which is terminated by a brick pier located at the back edge of the footpath.
11. The height of the boundary enclosure and its relationship with the footpath and highway have the effect of restricting visibility when looking east. Despite the proposed alterations, the same would be true for the proposed junction. This is confirmed by a diagram in support of the appeal which demonstrates that when applying a standard X-distance of 2.4 metres to the nearside kerb edge of the carriageway, visibility looking east would only achieve 16 metres, as opposed to the 43 metres expected by the Highway Authority.
12. Advice within Manual for Streets (MfS) states that in very lightly-trafficked and slow-speed situations, the X-distance can be reduced to 2 metres. If this distance were applied to the appeal site, then the required visibility would be achieved. However, the appeal site is accessed from a main road with a 30mph speed limit. The road is centrally located and provides access to many nearby commercial, residential, and community uses. Consequently, I have no reason to consider that it is a lightly-trafficked road. In addition, although the site is relatively close to a nearby roundabout, the proposal has not been supported by a speed survey to demonstrate that speeds are slow. Therefore, based on the evidence before me, I have no compelling reason to accept the reduced X-distance.
13. Consequently, for the reasons identified above, visibility would remain substandard and due to the intensification of its use, I conclude that the proposal would have a demonstrably detrimental effect on highway safety. Accordingly, the proposal would fail to accord with Policy TR5 of the LP, advice within the Buckinghamshire County Council Highways Development Management Guidance document (2018) and the aims of Buckinghamshire's Local Transport Plan 4. Taken together, amongst other things, these require safe and suitable access for all modes of transport and development which does not compromise the safe movement of traffic on the network or the safe use of the road by others.

Sustainable drainage

14. As identified above, the appeal proposal would constitute major development. Consequently, as required by the 2019 Framework, it should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The 2019 Framework states that such systems should take account of advice from the lead local flood authority (LLFA), have appropriate proposed minimum operational standards, have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development, and where possible, provide multifunctional benefits.
15. The proposal has not been accompanied by any substantive evidence in relation to matters of drainage and therefore, the LLFA have raised an objection to the proposal. This is due to a lack of information to demonstrate

that the site can be adequately drained and that, as a result of the proposal, flood risk will not be increased elsewhere.

16. The appellant has suggested that matters relating to a drainage strategy could be dealt with by way of a suitably worded planning condition. However, such an approach would leave the detailed requirements of both the LLFA and the 2019 Framework unresolved until planning permission was granted. In light of the detailed requirements, such a condition would fail the tests of precision and reasonableness. This is because there would be no certainty that the proposed drainage strategy would comply with the LLFA's requirements. I therefore cannot be certain that the condition would be suitably discharged.
17. I therefore conclude that the proposal would fail to make suitable provision for sustainable drainage. It would therefore fail to accord with Core Policy 13 of the CS which seeks to promote sustainable drainage systems.

Decentralised energy

18. Core Policy 12 of the CS requires that developments of 10 or more dwellings should secure at least 10% of the energy from decentralised and renewable or low-carbon sources unless demonstrated that it is not viable or feasible. In addition, Paragraph 153 of the 2019 Framework places a requirement on development to comply with any development plan policies on local requirements for decentralised energy supply unless it can be demonstrated that having regard to the type of development involved and its design, it is not feasible or viable.
19. Due to the date of the policy and changes to the Building Regulations, the appellant considers that the policy is out-of-date. However, no compelling evidence to confirm this is before me. Therefore, based on the evidence before me, I have no reason to agree that the development plan policy is out-of-date. Moreover, no evidence is before me that confirms that compliance with the policy is not viable or feasible.
20. I have considered whether this matter could be dealt with by way of a planning condition. However, the means of compliance with the policy could be broad and therefore, a condition would lack suitable precision. Consequently, I can have no certainty that such a condition could be complied with. It would also therefore fail the test of reasonableness.
21. I therefore conclude that the proposal would not make adequate provision for decentralised energy. It would therefore fail to accord with Core Policy 12 of the CS which promotes energy efficiency in order to reduce CO2 emissions.

Character and appearance

22. The appeal site is currently occupied by a large detached property which would be demolished to facilitate the development. The existing building is an historic structure that is faced in painted brick to the front and red brick to the rear. It is set back from the road, is 2 storeys in height, and occupies a broadly 'L'-shaped site. It has timber sash windows, chimneys and interesting outbuildings.
23. The neighbouring buildings vary in terms of form and appearance and there is no consistent building line generated by the location of the neighbouring buildings. However, the somewhat organic built form has some consistency in

relation to use of materials, the age of the buildings and their scale. As a consequence, the appeal site forms part of, and contributes to, an interesting if varied street scene. In this respect, the appeal site and the existing building contribute to the character and appearance of the area.

24. The Council have identified the building as a non-designated heritage asset. Paragraph 197 of the Framework states that the effect on the significance of a non-designated heritage asset should be taken into account when determining development proposals. Furthermore, it states that a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
25. As identified above, in its current form, the appeal site makes a positive contribution to the character and appearance of the area. This is not simply due to the age of the building, but is also due to its scale, form, location on the site, and its relationship with neighbouring properties. The proposed development would see a building of a comparable scale and appearance occupy a similar part of the site. Therefore, whilst the existing building would be lost as part of the proposed development, many elements of the non-designated heritage asset which contribute to its significance would influence the design and layout of the proposed development. In this respect, the proposal would be complementary to the surrounding built form.
26. Therefore, taking into account the significance of the non-designated heritage asset, and taking a balanced view having regard to the scale of any harm or loss, I conclude that the proposal would not harm the character and appearance of the area. Consequently, it would accord with Policy CP8 of the CS and Policy H9 of the LP. Taken together, these seek developments which are compatible with, and make a positive contribution to, the character and appearance of the surrounding area.

Waste collection

27. Policy H9 of the LP requires satisfactory access for refuse collection. Despite this, the proposed layout does not demonstrate that it is possible for a refuse lorry to turn within the site to enable access back on to the highway in a forward gear. However, based on the evidence before me, it is my understanding that refuse is currently collected kerbside and there is no compelling evidence before me that would prevent kerbside collection for the proposed dwellings.
28. Although bin storage areas are proposed within the development itself, the appellant is also of the view that similar areas could be provided to the front of the site. Furthermore, it is suggested that such a matter could be dealt with by way of a suitably worded planning condition. I am satisfied that suitable bin storage could be designed for the front of the site and therefore, a condition requiring this would accord with the tests within the 2019 Framework.
29. Consequently, subject to such a condition, I conclude that the proposal would make suitable provision for waste collection. It would therefore accord with Policies H9 and TR5 of the LP which, taken together, require satisfactory access to be available for refuse collection which does not compromise the safe movement of traffic on the network or the safe use of the road by others.

Other Matters

30. The Council cannot provide a 5 year supply of deliverable housing sites. As a consequence, the presumption in favour of sustainable development as set out in Paragraph 11 of the Framework is engaged. This is the 'tilted balance' which states that where the policies which are most important for determining the application are out-of-date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
31. Economically, the proposal would generate construction jobs as well as increasing the local population, which would likely bring with it additional expenditure into the local economy. On this point, I agree that the location of the appeal site would likely result in residents using many of the services provided by the nearby town centre. However, the economic benefits would derive from a development of only 10 units. Consequently, this limits the amount of weight afforded to them.
32. From a social perspective, the proposal would make a valuable contribution to local housing supply, particularly in relation to housing requirements on sites no larger than 1 hectare. This also weighs in favour of the appeal. Environmentally, the proposal would make use of a well-located site that would be likely to encourage modes of transport other than the private car, and I have found that the design and layout of the proposal would not harm the character or appearance of the surrounding area.
33. Cumulatively, I give the benefits of the proposal moderate weight in my assessment of the appeal. However, as identified above, the proposal fails to make suitable provision for affordable housing, and it would also be harmful to highway safety. These matters result in direct and demonstrable conflicts with local and national policy to which I attach significant weight. Moreover, the concerns in relation to decentralised energy and sustainable drainage also weigh against the appeal. Due to the nature and extent of the concerns identified, these result in adverse impacts which would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a consequence, I am satisfied that the appeal should not benefit from the presumption in favour of sustainable development.

Conclusion

34. The proposal would not harm the character and appearance of the area and suitable provision could be made for waste collection. It would also generate economic, social and environmental benefits as identified above.
35. However, I have also identified significant and demonstrable failings in relation to the provision of affordable housing, highway safety, decentralised energy requirements and sustainable drainage. For the reasons identified above, these adverse impacts would significantly and demonstrably outweigh the benefits of the proposal. Accordingly, the appeal should be dismissed.

Martin Chandler

INSPECTOR