

Appeal Decision

Hearing Held on 30 January 2020

Site visit made on 30 January 2020

by S Edwards MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 February 2020

Appeal Ref: APP/J0405/W/19/3233554

**Chiltern House, Haddenham Osteopaths, Thame Road, Haddenham
HP17 8BY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr R Stewart-Liberty against Aylesbury Vale District Council.
 - The application Ref 18/03704/APP is dated 15 October 2018.
 - The development proposed is described as 'application for full planning permission for demolition of the existing building and the erection of a three storey building comprising 17 one and two bedroom apartments with parking'.
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Decision

1. The appeal is dismissed, and full planning permission for demolition of the existing building and the erection of a three storey building comprising 17 one and two bedroom apartments with parking is refused.

Procedural Matters

2. The description of development provided in the application form has been amended in subsequent documents. I have adopted the description of development provided in the appeal form, as it accurately and concisely reflects the proposal before me.
3. Since the determination of the planning application, the preparation of the emerging Vale of Aylesbury Local Plan (eVALP) has progressed further. The Council is currently awaiting the Inspector's report, following the public consultation on the Main Modifications which ran until December 2019. Although it is yet to be found sound, the eVALP has reached an advanced stage of preparation, and can therefore be afforded moderate weight.
4. The appeal was made against a failure to give notice of a decision on the planning application within the prescribed period. However, the Council have detailed their concerns within their submissions, and advised that, had they been in a position to determine the application, it would have been refused.
5. A signed Planning Obligation pursuant to Section 106 (S106) of the Town and Country Planning Act 1990 (as amended), dated 31 January 2020, was provided after the hearing. The S106 would secure the provision of two Shared Ownership dwellings and financial contributions towards off-site sports and leisure facilities, which I will return to later in this decision.

Main Issues

6. Having regard to the Council's putative reasons for refusal, the main issues are:
- The effect of the proposal on the character and appearance of the area;
 - Whether the proposal would provide satisfactory living conditions for future occupiers of the development; and
 - Whether the proposal would make adequate provision for affordable housing and off-site sports and leisure facilities.

Reasons

Character and appearance

7. Chiltern House is located within the outer edge of the built-up area of Haddenham, which is identified by the Aylesbury Vale District Local Plan¹ (AVDLP) as one of the four largest settlements in the District where residential development is considered acceptable in principle. The appeal site comprises a two-storey office building which forms part of a business centre, and sits between commercial units of a similar scale and appearance. The area is otherwise primarily residential in character, and includes different types and styles of properties, which are typically set back from the road behind soft landscaped front gardens.
8. The footprint of the proposed block of flats would remain similar to the existing building. However, the proposal would, by reason of its three-storey scale and massing, appear significantly larger than the more traditional single and two-storey built forms which prevail in the area. It would, as a result, stand out as an unduly prominent form of development which would fail to relate to its surroundings. The contemporary design approach, having regard to the site's immediate context, is not objectionable in principle, but the massing and vast expanses of cedar cladding would only further exacerbate the excessive scale of the proposal and its dominant, bulky and incongruous appearance. Although the use of timber has been considered acceptable elsewhere within the locality, its extent generally remains limited and understated.
9. Furthermore, the car parking spaces which would be required for the number of flats proposed, combined with the formation of bin and cycle storage areas, would leave very limited scope for the provision of any meaningful landscaping to soften the appearance of the proposal. Whilst a suitably worded condition could require a more detailed landscaping scheme to be submitted, I am not convinced that, having regard to the proposed layout, any planting would thrive in such a constrained environment. This adds to my concerns about the overdeveloped nature of the proposal.
10. The proposed bin store would further exemplify the incongruous nature of the development, which would stand out as an alien feature along the site's frontage. The appellant has referred to a similar structure to the front of Rectory House, but this is at least partially screened by existing landscaping, thus reducing its visual impact within the street scene. Moreover, I have not been provided with any details in respect of the circumstances which would

¹ January 2004.

have led to this building being accepted and so cannot be sure that they necessarily represent a direct parallel to the proposal before me.

11. My attention has been drawn to two recently approved applications for the erection of a care home (Class C2)² and the development of a local centre comprising a nursery (D1), retail unit (A1) and 17 residential apartments (C3)³ within relative proximity to the site. These schemes however relate to a more substantial scale of development on larger sites. They are therefore considered of limited relevance in respect of the proposal before me, which I am required to assess on its individual merits, in the particular context of the Thame Road street scene that it would sit within.
12. I have also had regard to the three-storey apartment block located virtually opposite the appeal site, but this is a scheme which has been constructed on a prominent corner plot, and reflects the prevailing built forms and characteristics in the area. For these reasons, I consider that it does not provide an appropriate comparison to justify the scale or height of the appeal proposal.
13. Having regard to its scale, height, bulk, massing and overall detailed design approach, I find that the proposal would fail to relate to its immediate context and appear out of keeping with its surroundings. As a result, it would cause unacceptable harm to the character and appearance of the area and fail to accord with the design aims of AVDLP Saved Policy GP.35 and the National Planning Policy Framework (the Framework).

Living conditions for future occupiers

14. The proposed dwellings would be located within proximity to commercial premises, and the living conditions of future occupiers could therefore be adversely affected, particularly with regard to noise. However, this relationship was considered acceptable as part of the prior approval⁴ granted by the Council on 29 March 2018, subject to the submission of an acoustic report and incorporation of mitigation measures as part of the conversion, which could be subject to suitably worded conditions.
15. As detailed above, the appeal scheme would however create limited opportunities for the provision of soft landscaping, by reason of the site coverage of the proposed building, bin and cycle stores, but also the extensive parking areas required for the quantum of development proposed. Whilst the first and second floor flats would be provided with balconies, the proposal would fail to provide any usable outdoor space for future occupiers for the remaining units.
16. In addition, the outlook from many of the ground floor units would be particularly poor, as several windows serving habitable rooms (living/kitchen areas, as well as bedrooms) would look directly onto the driveway and parking areas at close quarters, in the absence of appropriate defensible space. The sole bedroom window to flat 2 would look directly onto the cycle storage area. These elements are indicative of the poor living environment that would be created for future occupiers, particularly in respect of the ground floor units.

² Local Planning Authority reference 18/01772/APP.

³ Local Planning Authority reference 19/00172/APP.

⁴ Local Planning Authority reference 18/00066/COUOR.

17. The proposed development would fail to provide a satisfactory living environment for future occupiers of the development. Whilst I find no conflict with ADVLP Saved Policy GP.8, which seeks to protect the amenities of nearby residents, the proposal would nevertheless fail to accord with paragraph 127 of the Framework in particular, which requires development proposals to provide a high standard of amenity for existing and future users.

Affordable housing and off-site sports and leisure facilities

18. Paragraph 64 of the Framework states that where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the homes to be available for affordable home ownership. Having regard to the definition of 'major development' provided within the Glossary in Annex 2 to the Framework, the proposal would fall within this category. The submitted S106 would secure the provision of two shared ownership units, which is considered acceptable by the Council and would meet the requirements of paragraph 64 of the Framework.
19. AVDLP Saved Policies GP.86 and GP.94 expect development proposals to provide for or mitigate their impacts in respect of public open space and recreation, which include play areas, indoor sports facilities and community facilities. A financial contribution of £26,675.00 would be provided as part of the proposal to meet the needs of the future occupiers of the development, and this has been secured as part of the submitted S106. The evidence submitted by the Council confirms that this contribution would be used towards a specific Sport and Leisure project. The level of information provided by the Council, particularly in respect of the method of calculation for the level of contribution required, is considered acceptable.
20. These contributions are considered necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development. The submitted S106, in respect of the contributions referred to above, would therefore meet the requirements set within paragraph 56 of the Framework and the tests in Regulation 122 of the CIL Regulations 2010 (as amended). On this basis, I am satisfied that the proposal would make adequate provision for affordable housing and off-site sports and leisure facilities, and would accord with AVDLP Saved Policies GP.86 and GP.94, as well as the Framework.

Other Matters

21. Concerns have been raised by interested parties regarding the effect of the proposal on the supply of employment land and premises within Haddenham. Local residents have referred to the supporting text within chapter 11 of the Haddenham Neighbourhood Plan (NP), which was made in 2015. Whilst the work undertaken as part of the preparation of the NP identified a need for relatively low-cost serviced office accommodation of the type provided at Chiltern House, I have however not been referred to a specific NP policy which aims to prevent the loss of employment premises and therefore find no conflict with Haddenham NP. The Council found that the proposal did not fully comply with the requirements of eVALP Policy E2, which notably seeks to retain existing employment land and premises, but this was considered to be outweighed by the extant fallback position. There are no reasons for me to take a different view.

22. I have also had regard to the Government's previous proposal to introduce new permitted development rights allowing commercial buildings to be demolished and redeveloped as housing. However, statutory regulations have not presently been adopted to enable this type of development to take place through the use of permitted development rights. The article referred to by the appellant therefore carries little weight for the purpose of my decision.

Planning Balance

23. In reaching these conclusions, I have taken into account the extant prior approval, which is an important material consideration as it establishes the principle of residential use on the site, and there is a reasonable prospect that the prior approval would be implemented if this appeal were to be unsuccessful. The proposed balconies would, overall, provide a more pleasant living environment for some of the future occupiers of the development, compared with the prior approval scheme. This would diminish the harm caused by the proposal in that particular regard. I have also given due consideration to other benefits which would be derived from the proposal, notably in respect of affordable housing, and contributions towards off-site sports and leisure facilities. However, I consider that, for the reasons detailed above, these benefits and the existence of the fallback position would be outweighed by the significant and permanent harm which the proposal would cause to the character and appearance of the area.
24. The parties agree that the Council is able to demonstrate a five-year supply of deliverable housing sites. Notwithstanding this, the appellant argues that the AVDLP policies relating to the supply of housing across the district (Policies RA13 and RA14 in particular) are considered out-of-date, given that they identified housing targets for the plan period up to 2011, thus triggering the application of paragraph 11d) of the Framework. However, as detailed above, I have found that the proposal would conflict with AVDLP Saved Policy GP.35, which is one of the most relevant development plan policies for the determination of the proposal before me and is consistent with the Framework. The most important policies for the purposes of the proposal before me, taken as a whole, remain up to date and paragraph 11 of the Framework is therefore not engaged in this instance.
25. For the avoidance of doubt, in the event that there were no relevant development plan policies or the policies most important for determining the appeal were out of date, it is considered that despite the accessible location of the site, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits of the proposal, when assessed against the Framework as a whole.

Conclusion

26. For the foregoing reasons, and having regard to all other matters raised, I conclude that there are no material considerations which indicate that the appeal should be determined, other than in accordance with the development plan. As detailed above, the proposal would conflict with the development plan and the appeal is therefore dismissed.

S Edwards

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Richard Stewart-Liberty	Appellant
Jake Collinge	Planning Consultant
Amanda Walker	Agent

FOR THE LOCAL PLANNING AUTHORITY:

Scott Hackner	Planner, AVDC
Hanna McGrory	Landscape Officer, AVDC
David Broadley	Senior Planning Policy Officer, AVDC

INTERESTED PERSONS:

Richard Hirst	Haddenham Village Society
David Truesdale	Chairman, Haddenham Parish Council
Brian Foster	Councillor for Haddenham

DOCUMENTS

- 1 Decision notice and plans for application Ref 18/01772/APP, approved by notice dated 5 April 2019 at Land North of Pegasus Way, Haddenham, Buckinghamshire.
- 2 Decision notice and plans for application Ref 19/00172/APP, approved by notice dated 24 October 2019 at Haddenham Care Home, Westland Close, Haddenham, Bucks HP17 8FJ.