
Appeal Decision

Site visit made on 14 February 2017

by Andrew McCormack BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 20 March 2017

Appeal Ref: APP/Y0435/W/16/3164179
37 Northampton Road, Lavendon MK46 4EY

- 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 Ben Brock against the decision of Milton Keynes Council.
 - The application Ref 16/01525/FUL, dated 3 June 2016, was refused by notice dated 10 October 2016.
 - The development proposed is 'demolition of existing garage and erection of 2 of 1 & ½ storey dwellings, landscaping, parking and access to include new car port to No 37. To land to the rear of 37 & 41 Northampton Road, Lavendon MK46 4EY.'
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing garage and erection of 2 of 1 & ½ storey dwellings, landscaping, parking and access to include new car port to No 37' in accordance with the terms of application Ref: 16/01525/FUL and subject to the conditions set out in the attached schedule.

Application for costs

2. An application for costs was made by Mr Ben Brock against Milton Keynes Council. This application is the subject of a separate Decision.

Procedural Matter

3. The description of development as set out on the application form and in the banner above has been amended to the following which appears on the Decision Notice: '*Demolition of existing garage and erection of 2 x 1 & ½ storey dwellings, landscaping, parking and access to include new car port to No 37.*' I find this to be a clearer description which does not materially change the nature of the proposed development as originally described. As such, I have used it in my decision.

Main Issues

4. The main issues are:
 - the effect of the proposed development on the character and appearance of the Lavendon Conservation Area and the setting of a listed building; and
 - whether sufficient information is available to assess the impact of the proposed development on the trees on the appeal site.
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Reasons

Character and appearance

5. The appeal site is located in an established residential area within the village of Lavendon. The proposed development of two detached dwellings would be to the rear of the existing frontage properties positioned along the south side of Northampton Road which is the main route through the village. The site would be accessed by a private drive from the main road between Nos 37 and 41 Northampton Road. The area is characterised by a range of terraced, semi-detached and detached properties of various sizes and architectural styles which are located on plots of differing sizes. The property at No 33 Northampton Road (No 33) is a Grade II listed building which is situated to the north of the appeal site. Therefore, the appeal site lies within the setting of a listed building and is also located within the Lavendon Conservation Area (CA).
6. The Council states that at the time of the planning application the appellant. Since the application was refused, a Heritage Impact Assessment (HIA) has been commissioned and submitted by the appellant. In the absence of a Conservation Area Appraisal of any further response from the Council, the HIA sets out some key elements of the CA which provide reasoning for its designation. These include the street pattern of the area and overall pattern of development, the layout of the built form and the clear historic and architectural legibility of the built fabric.
7. The area around the appeal site has development which has taken place to the rear of frontage properties, most notably at the rear of Nos 25 and 45 Northampton Road. As a result, the character and appearance of the area has developed accordingly. Therefore, in terms of the overall pattern of development in the area, the proposal would have no material adverse impact. The scale, design and size of the proposed dwellings would be similar to that of nearby detached properties, particularly at Nos 25 and 25a Northampton Road and to the rear of No 45 Northampton Road to the north west of the site.
8. Furthermore, the proposed dwellings would have some architectural compatibility with the nearby buildings in terms of materials and layout. Although the proposed dwellings would be larger than many properties nearby, they would be of a scale and proportion which would be similar to Nos 25 and 25a Northampton Road and within the range of size and scale of properties in the area. Therefore, due to this and their limited visibility from the public highway, I find that the proposed dwellings would be in keeping with the character and appearance of the properties immediately adjacent to the site. In addition, the dwellings would have no materially adverse visual effect on the character and appearance of the frontage properties along Northampton Road when viewed from the wider area.
9. From what I have seen and read, I find that the proposal would have no materially harmful impact on the character and appearance of the CA, the setting of the listed building or on the other non-designated heritage assets. As such, it would have a neutral effect on their character and appearance and would therefore have a preserving effect on such elements.
10. Consequently, I conclude that the proposed development would have no significant adverse effect on the character and appearance of the surrounding area including the CA and the setting of the listed building. Therefore, it would

comply with Policy CS19 of the Core Strategy and saved Policies HE5, D2 (i) and (ii) of the Milton Keynes Local Plan 2001-2011 and the Framework. Amongst other matters, these policies seek to ensure that development and its design does not significantly harm the character, form or setting of heritage assets, including conservation areas and listed buildings.

Effect on trees

11. The appellant sought pre-application advice from the local planning authority prior to submitting an application for the appeal scheme. Following the pre-application submission, the Council undertook an assessment of the trees on the appeal site in which it was determined that the trees are large fruit trees which are mostly in poor condition with a number in a state of decay. As a result, I note that these trees are not considered to be suitable for retention in relation to the proposed scheme.
12. Furthermore, in light of the submitted Habitat Survey and Bat Emergence report, the trees identified for removal were assessed as having negligible potential to support roosting bats. In addition, the appellant submitted a Tree Survey Plan which identified the trees to be removed as adding little to the character and appearance of the CA and setting of the listed building and other non-designated heritage assets.
13. From the evidence before me, the appellant has provided information upon which an assessment of the effect of the proposal on trees and hedges could be reasonably assessed. In the absence of any substantive evidence to the contrary, I find that the proposal would have no significant adverse effect on the character and appearance and setting of the surrounding heritage assets with regard to trees and hedges. Whilst I appreciate that the appellant has already provided some details with regard the impact of the proposal on trees and hedges, I find that conditions, which I have attached to this decision, are necessary and reasonable to ensure that the details of any future planting and maintenance are clarified and agreed.
14. Notwithstanding the above, I find that sufficient information has been provided to assess the effect of the proposed development on the existing trees and hedges on the appeal site. Furthermore, with the imposition of the attached conditions, I am satisfied that the proposal would not have a significantly detrimental effect on trees and hedges in the area and therefore its wider character and appearance.
15. Consequently, I conclude that the proposal would have no significant adverse impact on the existing trees and hedges around the appeal site. I am satisfied that any loss of trees, as identified in evidence, could be suitably mitigated by the replacement of those trees and hedges. Therefore, the proposal would comply with saved Policies D1 and HE6 of the Local Plan. Amongst other matters, these policies seek to ensure that the effect of development on trees and hedges is not significantly harmful to the overall effect of the trees and hedges or the wider surrounding area, including conservation areas.

Other Matters

16. Concerns have been raised relating to matters not dealt with under the substantive issues. These involve the privacy of neighbouring occupiers, flood

risk, noise and disturbance, traffic and parking, access to the site and the capacity of local services such as schools and doctor's surgeries.

17. With regard to privacy of neighbouring occupiers, I note that the Council has addressed this in the Officer's Report and I have seen nothing to lead me to disagree with that assessment. I note concerns relating to potential flooding and drainage on and around the appeal site. Whilst I appreciate the importance of these matters to those affected, from the evidence before me and with the imposition of a suitably worded condition, I find that any adverse effects would be suitably mitigated. Therefore, in the absence of any evidence to the contrary, I am satisfied that this would be reasonable and I have no reason to take a different view.
18. With regard to the concerns relating to the use of loose gravel for the proposed surfacing of the access lane, such works could be undertaken without the consent of the local planning authority even were planning permission refused for the proposed scheme.
19. In relation to traffic, parking and access concerns, the proposal would provide sufficient parking and I note that the highway authority has raised no objection to the scheme relating to these matters. Furthermore, at the site visit, I found there to be adequate visibility from the access point onto the public highway and sufficient parking available, as proposed in the submitted drawings for the scheme. Whilst I appreciate that observations at the site visit can only ever be a snapshot in time and may not necessarily reflect the situation at other times, I have no substantive evidence before me to indicate any other circumstance. In reference to concerns about the impact of the increase in population on the local school and doctor's surgery, I find that two new dwellings would cause no significant additional demand for such services and facilities.

Conditions

20. From the evidence, I have had regard to the planning conditions that have been suggested. Where necessary, and in the interests of conciseness and enforceability, I have altered the suggested conditions to better reflect the relevant parts of the Planning Practice Guidance. I have also imposed additional conditions for the reasons set out below.
21. In addition to the standard time condition (1), it is appropriate that there is a condition requiring that the development is carried out in accordance with the approved plans (2) to provide precision and certainty. A condition relating to materials (3) are appropriate in the interests of character and appearance. Conditions relating to landscaping and trees (4–10 inclusive) are necessary and appropriate for reasons of character and appearance. I have imposed a condition to provide details of potential flood risk and mitigation (11) which is necessary and reasonable in the interests of the living conditions of future and neighbouring occupiers.
22. Furthermore, conditions relating to the provision of bat tubes and bird nesting bricks (12) and with regard to the Habitat Survey and Report (13) are necessary and reasonable for the protection and retention of local wildlife and ecology in and around the site. In addition, given the residential character of the area, it is appropriate that controls are placed upon hours of construction (14) in the interests of the living conditions of neighbouring occupiers.

23. It is necessary that the requirements of Conditions 3, 4, 5, 6, 7 and 11 are agreed prior to development commencing to ensure an acceptable development in respect of the character and appearance of the area and the living conditions of future and neighbouring occupiers.

Conclusion

24. The proposal would provide two additional dwellings in a sustainable and accessible location which would have a modest impact on the housing undersupply in the area. In addition, it would reflect the prevailing pattern of development in the immediate area surrounding the appeal site. Whilst the benefits to the public would be limited, I find that the proposal would have no significant adverse effect on the surrounding area or the identified heritage assets. Therefore, having assessed the evidence before me, I find that the benefits of the proposal would outweigh the harm identified.
25. Therefore, for the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

Andrew McCormack

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: Plan Ref: LSD1 68-02-01 – ‘Site Plan’; Plan Ref: LSD1 68-02-02 – ‘Site Location Plan’; Plan Ref: LSD1 68-02-03 – ‘Block Plan’; Plan Ref: LSD1 68-02-04 – ‘Coloured Site Layout’; Plan Ref: LSD1 68-02-05 – ‘Tree Plan’; Plan Ref: LSD1 68-02-06 – ‘Boundary Plan’; Plan Ref: LSD1 68-02-40A – ‘Plot A – Proposed Floor Plans’; Plan Ref: LSD1 68-02-41A – ‘Plot B – Proposed Elevations’; Plan Ref: LSD1 68-02-42 – ‘Plot B – Proposed Floor Plans’; and Plan Ref: LSD168-02-43 – ‘Plot B – Proposed Elevations’.
3. No development shall commence until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to, and approved by, the local planning authority in writing. Development shall be carried out in accordance with the approved details.
4. No development shall commence until there shall have been submitted to, and approved in writing by, the local planning authority a scheme of landscaping. The scheme shall include the provision of fruit trees on an appropriate root stock that will produce medium to large size fruit trees that will replace the fruit trees lost due to the development, along with a significant proportion of other wildlife friendly planting, including native species hedging.
5. No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction – Recommendations’ (or in an equivalent British Standard if replaced) shall have been submitted to, and approved in writing by, the local planning authority.
6. No development shall commence until details of replacement tree planting shall be submitted to, and approved in writing by, the local planning authority as part of a general landscaping scheme which should include full details of tree sizes, species, planting locations and spacing, pre-planting ground preparations, planting method and long term maintenance. Details of root deflection barriers and permanent protective measures against such elements as compaction, impact and de-icing salt are to be provided to the local planning authority. Particular attention should be paid to ensuring that trees are planted in a sufficient quantity of high quality growing medium ensure their quick establishment and the early provision of maximum benefit to the locality.
7. All protective measures especially the fencing and ground protection must be put in place first, prior to any other work commencing on site (this includes vegetation clearance, groundworks, vehicle movements, machinery/materials delivery, storage etc). The fencing shall be of the same specification as that depicted in figure 2, page 20 and ground protection as specified in paragraphs 6.2.3.1 – 6.2.3.5, pages 21 and 22 in BS5837:2012. Signs informing of the purpose of the fencing and warning of the penalties against destruction or damage to the trees and their root areas shall be installed at minimum intervals of 10 metres and a minimum of two signs per separate stretch of fencing. Once erected, the local authority tree officer shall be notified so the fencing can be inspected and approved. The Root Protection Area (RPA) within the protective fencing must be kept free of all construction, construction plant, machinery,

personnel, digging and scraping, service runs, water-logging, changes in level, building materials and all other operations, personnel, structures, tools, storage and materials for the duration of the construction phase. The scheme for the protection of the retained trees shall be carried out as approved. In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.

8. All tree work shall be carried out in accordance with British Standard BS3998: 'Tree work: Recommendations' (or an equivalent British Standard, if replaced).
9. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the dwellings or the completion of development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
10. No fires shall be lit within 20 metres of the nearest point of the canopy of any tree. In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.
11. No development shall commence until details relating to the existing and potential flood risk to the site as a result of the proposed development have been submitted to, and approved in writing by, the Lead Local Flood Authority. These details should include:
 - i. A drainage plan, including the location and size of the proposed soakaway;
 - ii. Evidence of onsite infiltration rates to ensure that the proposed soakaway can accommodate the 1:100 year +20% CC allowance, whilst also assessing the performance of the proposal in order to fully understand any flooding implications of the 40% CC allowance. This should include an assessment of the preferential overland flow path; and
 - iii. A topographical plan of the site in order to assess overland flow.
12. The dwellings hereby permitted shall incorporate two bat tubes and two bird bricks per dwelling. The type of bat tubes and bird nesting bricks along with their locations shall be submitted to, and approved in writing by, the local planning authority.
13. The development hereby permitted should be carried out in accordance with The Extended Phase 1 Habitat Survey & Phase 2 Bat Emergence Survey Report, particularly paragraphs 7.5 to 7.8 on appropriate lighting regarding bats, paragraphs 7.9 and 7.10 relating to nesting birds, paragraph 7.11 with reference to hedgehogs and paragraph 7.12 regarding common reptiles and amphibians. Details of how the development accords with the above shall be submitted to, and approved in writing by, the local planning authority.
14. Construction works shall take place only between 0800 and 1800 Monday to Friday and 0800 to 1300 on Saturdays and shall not take place at any time on Sundays or Bank or Public Holidays.

END OF SCHEDULE