



Appeal Decision

Site visit made on 29 October 2019

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th November 2019

Appeal Ref: APP/P0240/W/19/3235704

Land off Swaffield Close, Ampthill MK45 2HJ

- 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 FSG Build Ltd against the decision of Central Bedfordshire Council.
 - The application Ref CB/18/04490/FULL, dated 30 November 2018, was refused by notice dated 16 July 2019.
 - The development proposed is the erection of 3 detached dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 3 detached dwellings at land off Swaffield Close, Ampthill MK45 2HJ in accordance with the terms of the application, Ref CB/18/04490/FULL, dated 30 November 2018 subject to the conditions set out in the attached schedule.

Procedural Matter

2. The development as originally submitted to the Council proposed the erection of 4 detached dwellings. From the evidence before me, it is clear that amended plans and details were submitted during the Council's consideration of the application revising the proposal to the erection of 3 detached dwellings. These were subject to consultation with interested parties. I have therefore used the revised description which was entered on an updated application form and on the appeal form in the banner heading above, and I have determined the appeal on the basis of these amended details.

Main Issues

3. The main issues are (i) the effect of the proposed development on the character and appearance of the area including with regard to its location within the Ampthill Conservation Area and (ii) the effect of the proposed development on the living conditions of neighbouring occupiers on Park Hill with particular regard to any overbearing effect.

Reasons

Character and Appearance

4. The appeal site is located within the Ampthill Conservation Area between Swaffield Close and dwellings on Park Hill. Swaffield Close is a cul-de-sac which increases in land levels as it curves towards the appeal site. It is characterised by modern dwellings of a mix of types that are set relatively close to their

- boundaries so that the dwellings appear large within their plots. Despite the modest spacing around buildings, in many cases the gaps between buildings afford views of woodland backdrops, often seen across the roofscape of intervening development. To the rear, the site adjoins dwellings on Park Hill including 21 to 27 Park Hill. This terrace of modest dwellings are set close to their rear boundaries where there is a terraced outbuilding adjacent to the appeal site. The wider street scene of Park Hill comprises a varied mix of detached, semi-detached and terraced dwellings within an irregular layout.
5. The broadly triangular appeal site is served by a vehicular access from Swaffield Close which crosses Footpath 11, a Public Right of Way that connects Park Hill and Ampthill Park. Ampthill Park is separated from the appeal site by a strip of land enclosed by fencing to the rear of 28 Park Hill and is a Grade II registered park and garden. Closest to the appeal site, it comprises an area of woodland within the wider parkland which slopes up away from the site.
 6. The main parties both indicate that the appeal site was originally intended to provide allotment land but that no provisions require continuation of this use, and the site is now overgrown. A number of trees and hedgerows are present within and on the boundaries of the appeal site, including along the boundary with Footpath 11. However, these are of undistinguished quality and gaps within the vegetation along the footpath offer views across the appeal site to dwellings on Park Hill behind.
 7. The Ampthill Conservation Area Appraisal 2005 (ACAA) identifies that the character of the wider Conservation Area has a number of constituent parts, but the limited palette of building materials with a predominance of red brick and clay roof tiles helps to bind the character of the town together. The significance of this area lies in part in the concentration of historic buildings and high quality townscape within a compact core which contrast with the surrounding open landscape and rising parkland of Ampthill Park which provide a backdrop of mature parkland trees to many parts of the town.
 8. The appeal proposes three detached dwellings on the site around a courtyard accessed from Swaffield Close. Plots 02 and 03 would back onto the strip of land at the rear of 28 Park Hill and would face plot 01 across the courtyard.
 9. Given the position of the appeal site between development on Swaffield Close and Park Hill, most views across the site are of surrounding built form. Views across the site towards Ampthill Park are more open, but the site is set apart from Ampthill Park by the strip of land to the rear of 28 Park Hill. Close boarded fencing separates Ampthill Park from this land and the broadly aligned rear boundaries of dwellings on Swaffield Close across Footpath 11. Rather than any gradual transition across the site, this provides for a clearly defined visual boundary to the margin of Ampthill Park beyond the appeal site. Together with the surrounding built form, this definition gives the impression that the site is within and forms part of the built-up urban area of the town, despite its undeveloped nature.
 10. I accept that the site is currently open and is visible from the surrounding area, including from Footpath 11. However, notwithstanding an original intention that it would provide for allotments, it is now bereft of any discernible function and has the air of leftover space which is incidental to the surrounding area. While this does not detract from the surrounding area, given the context described above it makes little distinct contribution to the setting of Ampthill Park or

nearby development. Moreover, the openness of the site does not contribute intrinsically to the character, appearance or significance of the Conservation Area and instead is a neutral element. Accordingly, the proposal would not result in loss of an open space which is important to the character or appearance of the area, and I see no reason that development of the site would in itself cause harm to the character or appearance of the Ampthill Conservation Area as a whole, or the setting to Ampthill Park.

11. Nevertheless, vegetation along the boundary of the site with Footpath 11 does provide for a 'green' approach to Ampthill Park and contributes to the character and experience of the Conservation Area in views along the footpath. The development includes removal of a mature Oak tree on the boundary with Footpath 11 adjacent to the proposed dwelling on plot 01, and much of the existing boundary hedgerow alongside plot 03. However, the many breaks in the hedgerow along the footpath limit the contribution this makes to the area. By the same token, the Oak to be removed is referred to by the main parties as a 'Category C' tree of low quality and is unremarkable in its scale or appearance against the parkland trees which do provide a backdrop to the town and a sylvan setting to Park Hill.
12. This parkland backdrop would not be harmed, and proposed landscaping works include reinforcement of the existing hedge along the boundary of plot 01 with the footpath, a replacement hedge along the boundary of plot 03 and a replacement Oak as well as further planting within the site. I accept that new planting would take some time to mature fully. However, I also note comments by the Council's Tree Officer referring to the decline of Elms within the current hedgerow, and indicating that this is likely to continue so that its replacement would be preferable. While the proposed hedgerow would include a break to enable access to the site and refuse collection area, there is already a gap here, and this would be a small part of the overall boundary.
13. Taking account of the existing condition and benefit provided by the vegetation on the site, the development would offer an opportunity to enhance the long-term contribution the site makes to the green approach along Footpath 11 and landscaping in the area. Subject to implementation and maintenance of replacement landscaping which could be secured by condition, the proposed removal of trees and hedgerow from the site would not therefore cause harm to the character or appearance of the Conservation Area or Ampthill Park.
14. Turning to consider the nature of the proposed development, there would be spacing between the dwellings and their boundaries, and the carports would be single storey and open to the sides. Together with the generous open areas within the site as a consequence of the proposed gardens and central courtyard, this would retain a sense of openness and views through and across the site, and the dwellings would sit comfortably on their plots.
15. The roofs of the dwellings would be comparable in height to buildings on Park Hill, and while they would be above those of dwellings on Swaffield Close, this would reflect the land levels and existing pattern of stepped dwellings which is characteristic in the area and would not be to such a degree that the development would be unduly dominant in views or an incongruous addition. The proposed dwellings would also be larger than their neighbours. However, there is little consistency in the scale of neighbouring dwellings which vary considerably in scale near to the site, including on Park Hill, as well as within

- the wider Conservation Area. Accordingly, I see no reason this would cause the proposed dwellings to appear unduly prominent or result in an awkward visual relationship with neighbours on Park Hill.
16. The mock Georgian style of the dwellings would contrast with the appearance of the modern dwellings on Swaffield Close, and would also differ from the predominantly 19th Century dwellings on Park Hill. Together with the gates indicated to the site entrance, the development would thus appear distinct from its immediate surroundings. However, there are a mix of different styles and forms of dwellings within the wider area, and these are often set side by side. As the ACAA highlights, the Conservation Area includes a number of constituent parts, and the area around Park Hill is particularly noted as having an eclectic character. The proposed dwellings would reflect other Georgian buildings present within Ampthill, including examples that I saw on Church Street. As a result, rather than appearing incongruous, the development would build on the varied architecture of Ampthill and would complement the diverse character of the wider Conservation Area.
17. I have paid special attention to the desirability of preserving or enhancing the character or appearance of the Ampthill Conservation Area as required by Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. However, taking all of the above together, I conclude on this main issue that the development would preserve the character and the appearance of the Ampthill Conservation Area. In accordance with paragraph 192 of the National Planning Policy Framework (the Framework) I have also taken account of the desirability of preserving or enhancing the character or appearance of Ampthill Park registered park or garden as a designated heritage asset in its own right, and similarly find that there would be no harm to its significance.
18. I therefore find no conflict with policies CS15, DM3 and DM13 of the Core Strategy and Development Management Policies 2009 (CSDMP) which require, amongst other matters, that development contributes positively to local distinctiveness and protects, conserves and enhances heritage assets including Conservation Areas. These policies are consistent with paragraphs 127 and 130 of the Framework in respect of achieving well designed places which are sympathetic to local character and the surrounding built environment, as well as chapter 16 which seeks the conservation and enhancement of the historic environment. The proposal would also accord with guidance within the ACAA that development should maintain the distinctive character of the Conservation Area, and the emphasis given by the Central Bedfordshire Design Guide 2014 to the creation of high quality and distinctive places.

Living Conditions

19. The proximity of dwellings on Park Hill to their boundaries with the appeal site increases generally from 18 Park Hill towards 27 Park Hill which includes a rear projection set very close to the boundary, and 28 Park Hill which is also set at a lower land level. I note that windows within the rear elevations of these dwellings would have views of the proposed development rather than across the existing open site.
20. However, while 28 Park Hill is at a lower land level, this dwelling does not face the appeal site directly and noting also the separation that would be provided to the closest dwelling on plot 02, the development would not be overbearing to occupiers of this neighbouring property. Similarly, 18 and 19 Park Hill would

face towards the dwelling on plot 01. However, the dwelling here would be of comparable height to these neighbours and given this and the separation that would be maintained, the development would not be overbearing to the occupiers of these properties. The rear elevation of 20 Park Hill would be broadly in line with the central courtyard of the proposed development, and the orientation of 16 Park Hill means that views from this neighbour would not face directly the closest proposed dwelling on plot 01. As a result, there would be no overbearing impact on the occupiers of these properties.

21. Neighbours at 21 to 27 Park Hill would be closer to the development and the closest dwelling on plot 02 would be larger than these neighbours. However, floor levels are shown to be reduced so that this dwelling would be no higher than these neighbours. Additionally, although it would have a greater footprint than these neighbours, views from their rear windows would be to the relatively short flank elevation of the dwelling which would be set away from the boundary. Open views would therefore be retained to the front and rear of the proposed dwelling. Consequently, while I note the proximity of these neighbours to their rear boundaries and that views from their rear windows would change, given the siting and scale of the proposed development it would not be overbearing so as to cause unacceptable harm to the living conditions of these occupiers.
22. I therefore conclude on this main issue that the development would not cause harm to the living conditions of the occupiers of neighbouring properties on Park Hill through an overbearing effect. As a result, I find no conflict with Policy DM3 of the CSDMP which includes, amongst other things, a requirement that development respects the amenity of surrounding properties. This policy is consistent with paragraph 127 of the Framework insofar as it seeks a high standard of amenity for existing and future users.

Other Matters

23. The main parties have referred to conflicting appeal decisions regarding whether or not the Council has a 5 year housing land supply. However, given my findings on the main issues above, it has not been necessary for me to reach a conclusion on this point.
24. I have taken into account comments made by third parties, including concerns raised over traffic crossing Footpath 11 to access the site. Although it may not currently be well-used, I note that there is already a vehicular access to the site crossing this footpath. Additionally, the proposal includes gates to the access to the site and any vehicles entering or leaving the site would be likely to be moving at low speeds. Turning within the site will enable vehicles to travel in forward gear and appropriate visibility for vehicles and pedestrians can also be secured by condition. Given all of these factors, and in the absence of any firm evidence before me to the contrary, I see no grounds to conclude that there would be unacceptable harm to the safety of users of the footpath.
25. Parking would be provided within the site to meet the required standards, and proposed ecological enhancements would offer an opportunity for a net gain in biodiversity and can be secured by condition. Where the relationship between proposed windows and neighbouring windows could result in overlooking, the use of obscure glazing can be secured by condition to ensure no loss of privacy, and any disruption during construction would be for a temporary period only and could be mitigated by careful construction management. There is no firm

evidence to suggest that the development would cause pollution or drainage problems; that there is insufficient capacity in local services to meet needs generated by the development; or to indicate that the proposal would result in damage to neighbouring buildings, or that any such damage should it occur would not be covered under separate legal rights. Finally, standards for access for emergency vehicles and fire safety requirements are covered within Building Regulations and would apply to the development.

Conditions

26. I have considered the Council's suggested conditions. Where necessary, I have altered these for clarity, to ensure compliance with the relevant tests and to avoid duplication.
27. In addition to the standard time limit condition (1), I have imposed a condition specifying the approved plans (2) for the avoidance of doubt and in the interest of certainty. In order to ensure a satisfactory appearance and in the interests of the living conditions of neighbouring occupiers, a condition to require details of the floor and slab levels of the buildings (3) is required prior to the commencement of development.
28. Conditions requiring details of materials (4), provision for landscaping and maintenance of this (5 and 6), boundary treatments (7) and details of areas for the storage and collection of waste (8) are necessary to ensure a satisfactory appearance. To promote sustainable travel, I attach a condition to require the provision of electric vehicle charging points (9) and in the interests of highway and pedestrian safety, conditions to require access and turning (10) and provision of visibility splays (11) are necessary. A condition to require implementation of ecological enhancements (12) is necessary in the interests of securing a net gain in biodiversity. Finally, in the interests of the living conditions of neighbouring occupiers a condition requiring the use of obscure glazing to windows that could give rise to overlooking (13) is required.

Conclusion

29. For the reasons given above, I conclude that the appeal should be allowed.

J Bowyer

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 18-15-PL-001, 18-15-PL-002 F, 18-15-PL-003 A, 18-15-PL-101 A, 18-15-PL-102, 18-15-PL-201 B, 18-15-PL-202 B, 18-15-PL-301 C, 18-15-PL-302 C, 18-15-PL-501 A, RSE_1927_Enhancement Plan V2, RSE_1927_TCP V1 and RSE_1927_TPP_V1.
- 3) Notwithstanding the details shown on the approved plans, no development shall take place until full details of the existing and finished levels, above ordnance datum, of the ground floor and slab levels of the proposed buildings, in relation to existing ground levels and the adjoining properties in Park Hill and Swaffield Close have been submitted to and approved in writing by the Local Planning Authority. These details shall include sections through the site and adjoining properties, the location of which shall first be agreed in writing with the Local Planning Authority. The development shall be carried out in accordance with the approved levels.
- 4) Notwithstanding the details shown on the approved plans, no development above ground level shall take place until details of the materials to be used in the construction of the external walls and roofs of the dwellings and car ports hereby permitted and details of all external surfacing have been submitted to and approved by the Local Planning Authority in writing. The development shall be carried out in accordance with the approved details.
- 5) No development above ground level shall take place until a landscaping scheme to include details of all hard and soft landscaping works has been submitted to and approved in writing by the Local Planning Authority. Details shall include full details of a replacement tree for tree T1 shown on drawing reference RSE_1927_TCP V1 and provision for native species. The approved scheme shall be implemented by the end of the first full planting season (the period from October to March) immediately following completion and/or first occupation of any part of the development. Any trees, shrubs, grass or planting which within a period of 5 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.
- 6) Before the development is first occupied a landscape maintenance scheme, including management responsibilities and maintenance schedules for all landscaping works referred to in condition 5 shall be submitted to and approved in writing by the Local Planning Authority. This shall include details of maintenance of hedgerows to the site boundaries which are to be retained for a period of five years following the implementation of the landscaping scheme. The landscape management plan shall be carried out as approved.
- 7) Notwithstanding the details shown on the approved plans, no development above ground level shall take place until a scheme indicating the positions, design, materials and type of all boundary treatments including any gates have been submitted to and approved in writing by the Local Planning Authority. Any gates provided shall open

away from the highway, shall be set back a distance of at least 8.0m from the nearside edge of the carriageway of the adjoining highway, and shall not obstruct vehicles using the site and turning area within it. The boundary treatment shall be completed in accordance with the approved scheme before any part of the development is first occupied.

- 8) Notwithstanding the details shown on the approved plans, details of a refuse collection point located adjacent to the site frontage and outside of the public highway and any visibility splays shall be submitted to and approved in writing by the Local Planning Authority and shall be implemented in accordance with the approved details before any part of the development is first occupied. The scheme shall be retained as such thereafter.
- 9) Prior to construction of the vehicular parking areas associated with the dwellings hereby permitted, a scheme for the charging of electric vehicles shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before any part of the development is first occupied and shall be retained as such thereafter.
- 10) No dwelling shall be occupied until the junction of the proposed vehicular access with the highway has been constructed in accordance with the approved plans, and the turning area for vehicles illustrated on drawing reference 18-15-PL-002 F has been constructed in accordance with the approved plans. The turning shall thereafter be retained free of obstruction for the purpose of vehicular turning.
- 11) Before the access to the site from Swaffield Close is first brought into use, a triangular vision splay shall be provided on each side of the new access with Footpath 11. This shall be 2.8m measured along the back edge of the footpath from the centre line of the anticipated vehicle path to a point 2.0m measured from the back edge of the footpath into the site along the centre line of the anticipated vehicle path. The vision splay so described shall be maintained free of any obstruction to visibility exceeding a height of 600mm above the adjoining footway level.
- 12) Ecological enhancements shall be implemented in accordance with the details contained in the Preliminary Ecological Appraisal reference RSE_1927_01_V1 (November 2018) and the details shown on the Ecological Enhancement Plan RSE_1927_Enhancement Plan V2 prior to first occupation of the development hereby permitted, save for soft landscaping works which shall be implemented by the end of the first full planting season (the period from October to March) immediately following completion and/or first occupation of any part of the development.
- 13) The first floor windows in the southern flank elevation of the dwelling on plot 02 shall be fitted with obscured glazing to substantially restrict vision through them at all times, and no part of those windows less than 1.7 metres above the floor level of the room in which it is installed shall be capable of being opened. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no further windows or other openings shall be installed at first floor level or above on the southern flank elevation of the dwelling on plot 02.