



Appeal Decision

Site visit made on 4 February 2020

by A Denby BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 March 2020

Appeal Ref: APP/Y0435/W/19/3241473

**Land north and west of Wavendon Business Park, Ortensia Drive,
Wavendon Gate, Milton Keynes, MK17 8LX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition imposed on a grant of planning permission.
 - The appeal is made by Abbey Development Ltd against the decision of Milton Keynes Council.
 - The application Ref 19/02336/DISCON, dated 12 September 2019, sought approval of details pursuant to conditions Nos 9, 17 and 29 of an approval Ref 18/01304/REM, granted on 11 April 2019.
 - The application in respect of Conditions 9 and 17 was refused by notice dated 7 November 2019.
 - The development proposed is Reserved matters application for internal access, appearance, landscaping, layout, and scale for 134 residential units, 100sqm of A1 (retail use).
 - The details for which approval is sought are: Ground and Floor Levels (Condition 9); and Boundary Treatments (Condition 17).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellant applied to discharge Condition 29-Broadband Connectivity imposed on the Reserved Matters application, as outlined above. However, as that condition was discharged by the Council the appeal only relates to the details in dispute.
3. The appellant has stated that approval has recently been given for details of boundary treatments under a separate application¹. Whilst I have been provided with a copy of the decision notice, copies of the approved details have not been submitted, and I note the drawing numbers referenced on the decision notice are different to those submitted as part of the current appeal. For the avoidance of doubt, I have considered the appeal on the basis of the details submitted and upon which the Council made its decision, and this subsequent approval has therefore not been determinative in my assessment.
4. The Council have approved a non-material amendment² relating to the roof design of the convenience store and relocated entrance door, and I have taken this into account in my determination of the appeal.

¹ 19/03158/DISCON

² 19/03234/NMA

Background and Main Issues

5. Outline planning permission was granted in 2017 for up to 134 residential units and 75-100sqm of A1 (retail use) for the provision of a local convenience store. A Reserved Matters application³ (RM) was subsequently approved in 2019 with a number of conditions attached to that approval.
6. The appellant sought approval from the Council for details relating to Condition 9-Ground and Floor Levels (C.9); and Condition 17-Boundary Treatments (C.17).
7. The Council refused the details in relation to C.9 due to concerns regarding the impacts of reductions in ground levels close to an existing poplar tree, the impact on connectivity between the appeal site and development site to the north due to the proposed level of the access road, and the visual impact of the proposed convenience store when viewed from the north due to proposed finished floor levels.
8. The Council also refused the details in relation to C.17 as they considered amendments were necessary to ensure the scheme was acceptable with regards to its visual impact and creation of clearly identifiable public and private spaces. Although the Council have referred to the effect on Plot 106 the drawings submitted show Plot 108 is located adjacent to the convenience store car park and this is where the concern lies.
9. The main issues are therefore whether the details submitted in an attempt to discharge those conditions would be acceptable having regard to the character and appearance of the area; living conditions of future occupants, with particular regard to security and privacy; retention of important biodiversity features and connectivity with surrounding sites.

Reasons

10. The appeal site currently comprises an undeveloped plot of land accessed from Ortensia Drive. Land levels generally fall across the site from the south though these level changes are more pronounced within the eastern part of the site. There is a ditch course to the northern site boundary with the site beyond, identified as Groveway Development, currently under construction for housing development.

Ground and floor levels

11. C.9 of the reserved matters approval required details of the proposed finished floor levels of all buildings, and finished ground levels of the site in relation to existing site levels of surrounding property, to be submitted for approval.
12. The submitted details indicate significant changes in ground level to create a storage pond as part of the site wide drainage strategy. The storage pond would be in close proximity to a poplar tree which is required to be retained, albeit as a monolith, under Condition 19 (C.19) of the RM. This is an important biodiversity feature for the site, and the parties agree that it is desirable to retain it as an ecological feature for as long as possible following completion of the scheme.

³ 18/01304/REM

13. The appellant has stated that a separation of 6m from the base of the monolith to the proposed pond would be sufficient to ensure structural roots would keep the monolith upright. However, no detailed evidence has been provided to substantiate this. There would also be significant excavations in relation to the proposed pond which would be in close proximity to the tree and have a steep slope. Furthermore, regrading of ground levels closer to the tree are also proposed.
14. There is little detail as to whether these ground works would affect the length of time the monolith would be expected to remain upright, and therefore its value and contribution as a biodiversity feature. Furthermore, although indicated on the submitted level plan, as it is a 'U' category tree the Root Protection Area has not been mapped. It is therefore not clear on what basis the 6m distance has been determined.
15. The details approved in relation to C.19 appear to have been on the basis of works only being undertaken above ground. Whilst from my site visit it is evident that the location of the tree, as indicated, is unlikely to be wholly inaccurate, I am not convinced that it has been fully demonstrated that the extent of the ground level alterations would not adversely impact on the root system of the tree and therefore its retention as a biodiversity feature.
16. I saw on my site visit that there is a housing development currently under construction on land to the north of the site which is at a lower ground level to that of the appeal site. There is however little in the evidence before me to demonstrate what the layout and levels of the adjacent site are. The appellant has stated that the road level is dictated by the need to cross the ditch course to the northern site boundary. The ditch course is to be culverted as part of the proposed development though this detail is not indicated on the submitted cross section. On the basis of the above I am not satisfied the submitted detail satisfactorily demonstrates that a connection to the adjacent site could be achieved. There is therefore no certainty that accessibility and connectivity, which would be a benefit to occupiers of both schemes, would be provided.
17. The proposed convenience store would be located adjacent to the northern site boundary and would be at a higher ground level and finished floor level than the development site to the north. However, this is due largely to the need for the development to respond to the natural land levels.
18. The cross section provided demonstrates that the finished floor level of the store would not be significantly higher than the proposed road level or natural ground level. It would not result in a significantly larger flank elevation and the amendments to the roof design would reduce its overall bulk.
19. There is an existing hedge to the northern boundary, which would provide some visual screening, though it is not clear from the details before me whether this could be retained. In any event, the proposed convenience store would be viewed in the context of the wider development which, due to the land naturally rising to the south would be at a higher level than the store. Therefore, in the context of the wider development I do not consider the store would appear as an incongruous or overly dominant feature when viewed from properties to the north.
20. Whilst I have found the details of the convenience store to be acceptable the details in relation to the proposed levels for the road and storage pond are

insufficient to discharge C.9, and result in development that would be at odds with Policy D1 of Milton Keynes Council Plan: MK 2016-2031, adopted 2019 (PMK) which seeks to ensure that development proposals as a whole respond appropriately to the site and surrounding context, creating places that are permeable and well connected.

Boundary Treatments

21. Railings are proposed to the front of Plots 1-18, and whilst their height is not indicated on the submitted plans, they are shown to end abruptly adjacent to the access to the car parking area. Consequently, there would be a lack of definition between the public and private areas at this point. The railings would have an unfinished appearance and provide insufficient delineation of the public-private space, thereby failing to achieve the high-quality design requirements of PMK Policy D1.
22. The proposed convenience store is to the north-west of Plot 108 and the car parking area would directly adjoin the side garden of this proposed dwelling. Whilst the rear section of the garden boundary would be a high brick wall there would be only low-level post and rail fencing to the remainder of the boundary. This would provide little definition between the public and private space with the side elevation of Plot 108 being exposed.
23. The details for the site include a proposed fence and trellis combination that would, overall, be 2.4m in height. This is primarily proposed to be installed to pedestrian access routes to rear garden areas. Any views of this boundary treatment from the street would be limited, and where it could be viewed this would be in the context of intervening boundary treatment and against the backdrop of the dwellings themselves. I therefore do not consider this element would be overbearing or have a harmful effect on the character and appearance of the street scene.
24. The Council have raised a concern regarding the lack of landscaping in certain areas, though the condition before me relates only to boundary treatment. In the locations identified the boundary walls would be set back and there would appear to be space for landscaping if necessary. Nonetheless, even in the absence of soft landscaping, in the context of the wider development and considering the location of the boundary treatment it would not be an overly prominent or unduly harsh feature within the street scene.
25. Whilst I have not found harm in relation to the proposed details of the fence-trellis or lack of landscaping, the boundary treatment proposed in respect of Plots 1-18 and Plot 108 would result in development that would be at odds with PMK Policy D1 which seeks to ensure that development proposals achieve high quality design, with appropriate framing of space to define public and private areas, with front gardens designed to be clearly private through appropriate boundary treatments.

Conclusion.

26. For the reasons stated above I conclude that the appeal should be dismissed.

A Denby

INSPECTOR