



Appeal Decision

Site visit made on 19 May 2020

by S Harley BSc(Hons) MPhil MRTPI ARICS

an Inspector appointed by the Secretary of State

Decision date: 1st June 2020

Appeal Ref: APP/Y0435/W/20/3246673

Long Acre, No 38 Cranfield Road, Wavendon MK17 8AS

- 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 Pete Foster, Tlsworth Developments against the decision of Milton Keynes Council.
 - The application Ref 19/03219/FUL, dated 29 November 2019, was refused by notice dated 28 January 2020.
 - The development proposed is erection of three dwellings and formation of new access.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of three dwellings and formation of new access at Long Acre, No 38 Cranfield Road, Wavendon MK17 8AS in accordance with the terms of the application Ref 19/03219/FUL, dated 29 November 2019 and the accompanying plans, subject to the conditions set out in the attached schedule.

Application for Costs

2. An application for costs was made by Mr Pete Foster, Tlsworth Developments against Milton Keynes Council. That application is the subject of a separate Decision.

Preliminary Matters

3. Outline planning permission for the erection of up to four x 4-bedroom detached dwelling houses, the construction of a vehicular access road and widening of an existing vehicular access at No 38 was granted permission in November 2018 at appeal Ref APP/Y0435/W/18/3206192 (the outline permission).
4. Since that time the Milton Keynes Council Plan:MK 2016-2031 March 2019 (Plan:MK) has been adopted as part of the development plan for the area. More recently, the Council has made an area-wide Tree Preservation Order (the TPO) for all trees of any species on land including that along the front boundary of the appeal site¹. The evidence indicates that the emerging Wavendon Neighbourhood Plan has not progressed to a stage that allows material weight to be afforded to it in this appeal.

¹ Tree Preservation Order (No 2) 2020

Main Issues

5. The main issues for this appeal are: whether the proposal complies with the Council's spatial housing strategy; the effect on the character and appearance of the area; and the effect of the proposal on highway safety.

Reasons

The spatial housing strategy

6. Policies DS1 and DS2 of Plan:MK direct housing development to the most sustainable locations. The hierarchy seeks to focus the majority of development in or adjacent to the existing urban area of Milton Keynes and the key settlements of Newport Pagnell, Olney and Woburn Sands. In rural areas, development is directed to larger villages and locations identified in made neighbourhood plans.
7. As it is outside any settlement boundary, the appeal site is in the open countryside for the purposes of planning policy. Policy DS5 of Plan:MK provides a vision for development outside settlement development boundaries. It states that in such areas, to safeguard the countryside from inappropriate development, planning permission will only be granted for certain limited forms of development, none of which apply in this case. Moreover, given the distance to local services and facilities, future occupiers of the proposed development would have less than satisfactory access to services and facilities without relying on the private vehicle.
8. Accordingly, I conclude the proposal would conflict with Policies DS1, DS2 and DS5 in Plan:MK and would therefore be contrary to the Council's spatial housing strategy.

Character and appearance

9. The National Planning Policy Framework (the Framework) states that planning decisions should recognise the intrinsic character and beauty of the countryside. It adds that development (whether or not in the countryside) should be sympathetic to the local character, including the surrounding built environment and landscape setting. Policy DS5 of Plan:MK broadly reflects this approach, with its acceptance of limited forms of development in the open countryside, given its recognition of the importance of safeguarding the open countryside's character.
10. Long Acre is a detached bungalow in a large garden in Lower End, a hamlet near Wavendon, which is on the fringes of Milton Keynes. Along the north-west side of Crow Lane, in a cul-de-sac arrangement between the main route of Long End Lane and Cranfield Road, is a predominantly linear row of dwellings sited quite close to each other, mainly on one side of the carriageway. Along Cranfield Road, from the junction with Crow Lane to the edge of Woburn Sands, and along Crabtree Lane, are mainly sporadic dwellings interspersed with fields.
11. There is no single consistent style, size, age, materials, layout or density of development locally. The host property, Long Acre, and the neighbouring Tollgate, which is a detached dwelling on the corner of Cranfield Road and Crow Lane, and the property on the opposite corner with Crabtree Lane, are all bungalows. Development along Crow Lane is in part larger detached houses set

- in larger plots; there are also more built-up smaller plots towards the junction with Cranfield Road; and some terraced houses. There is a mixed palette of materials including brick, render, tiles and a thatched roof in evidence.
12. The current appeal site comprises a large part of the garden of Long Acre. The proposed dwellings would be arranged around a short cul-de-sac in a shallow arc extending from Long Acre towards the shared boundary with Tollgate. Landscaping would be provided to the front of the proposed dwellings with appropriate framing of public and private areas and the layout includes adequate private amenity space for each new property. The proposed timber clad garages would be suitably related to each dwelling.
 13. The dwellings would have accommodation over two floors. In each case, three bedrooms would be at first floor and one at ground floor, with the upper floors accommodated in the roof spaces. As a result, there would be lower eaves and ridge heights compared to many two storey dwellings. Although taller than the adjoining bungalows, the proposed dwellings would not be unduly out of scale and would respond appropriately to the local context of one and two storey properties.
 14. The appearance of the proposed dwellings would differ from each other, but there would be sufficient similarity in details such as dormers, stone cills and a mix of brick and render to provide some consistency as a group. Stone cills, brick lintels and chimneys would add further interest to the appearance of the properties. The design, scale and materials proposed would not be out-of-keeping with the local context.
 15. In the above respects, I agree with the Council's views regarding the acceptability of the layout and design of the scheme within and of itself.
 16. The appeal site is higher than Crow Lane and is separated from it by hedges and gardens. Given the proposed ridge and eaves heights, and the distance of the proposed dwellings from Crow Lane, I consider the proposal would not be so intrusive as to have an unacceptable effect on the character or appearance of the countryside as viewed from Crow Lane, even though there would be some impact on the openness of the countryside and the density of development would increase. I acknowledge that the occupants of other dwellings would prefer to retain the outlook they currently enjoy. However, simply being able to see other dwellings set in gardens does not, given the site context, provide sufficient reason to refuse the proposal.
 17. Chimney Cottage is a Grade II Listed Building. There would be no direct impact on the Listed Building itself. However, the appeal site is behind the garden of No 11 and Chimney Cottage is opposite to No 11's garden directly across Crow Lane, and so lies within its setting. The special interest of Chimney Cottage is its historic form, appearance and architectural detailing. Its front faces down along Crow Lane. It seems to me that any heritage significance it derives from its setting is largely confined to its own garden, with the other dwellings and their gardens to the sides and front, and the fields to the rear, also making a contribution, albeit very limited. The proposed development, comprising dwellings set in gardens some distance away, would have a neutral effect in terms of any contribution that setting makes to the special interest of Chimney Cottage. Neither would the development have any impact on the ability of the public to experience or interpret its heritage significance.

18. The access to Long Acre from Cranfield Road is at the southern end of the property. There are mature trees alongside Cranfield Road such that Long Acre, and the appeal site, are substantially screened from view, particularly during times when the trees are in leaf. The TPO plan submitted with the Council's Questionnaire indicates that these trees are protected by the Order.
19. The proposed access would require the removal of four protected Ash trees (which is the same as at outline stage). The Tree Survey Report Nov 2019 identifies these Ash trees in Group G1. They are described as mature multiple stems/coppiced hedgerow trees, combined crowns, with Ivy clad stems, in fair condition and of moderate amenity value. Although the removal of these four trees would partially open up views of Long Acre and the appeal site from Cranfield Road, the remaining trees along the boundary with Cranfield Road are proposed for retention and replacement tree planting could be secured as part of a landscape scheme. This together with proposed planting within the site, particularly along the boundary for Plot One, and around its garage, would mean the proposed dwellings would not be unduly intrusive or detract from the immediate localised character of the area of a hamlet with a number of properties amongst trees and hedges. Due to the reduction in the proposed number of dwellings compared to the illustrative layout at outline stage, there would be a larger garden area away from the Cranfield Road site boundary for the proposed Plot 3 and therefore there is likely to be less pressure to remove trees along it.
20. The proposed hard surfaced access would be separated from Cranfield Road by a strip of land adjacent to the retained hedge/trees. Combined with the other proposed planting around the fronts of Plots One and Two and the omission of the formerly proposed parking court I consider that the proposal would not have an unacceptable urbanising effect in this location.
21. Some construction works and part of the access would occur within the root protection area of some trees, including those within the Order. However, I note that the Council's Landscape Architect raises no objection subject to the protection of retained trees as set out in the Tree Survey Report, and a landscape scheme being secured by condition. I see no significant evidence to reach a different conclusion in respect of the measures to protect trees identified as to be retained. Whilst I am mindful that the trees to be removed are protected as part of the area wide TPO, their removal was fore-shadowed in the extant outline permission.
22. Whilst there would be some impact on the openness and visual amenities of the countryside, taking all the above into account, including the extant outline permission for development of the site which is a material consideration in this case, I conclude on balance that the proposed development would not have such a harmful effect on the character and appearance of the area as to justify withholding permission. Accordingly I find no conflict with Policies D1, D2, D3, DS5 or HE1 of Plan:MK, or those principles of the Framework, that require development to respond appropriately to the site and context, be built to a high standard, be laid out in an appropriate manner and to respect heritage assets.
23. In dealing with this matter, I am mindful that the Planning Practice Guidance (the PPG)² confirms consent for works to protected trees is necessary where only outline permission has been granted. However, the appeal relates to a full,

² Paragraph: 083 Reference ID: 36-083-20150415

freestanding, planning application that falls to be considered on its own particular merits. In this regard, the PPG also confirms that consent is not required for carrying out work on trees subject to a TPO in so far as such work is necessary to implement a full planning permission. Accordingly, were the appeal to succeed and the permission implemented, no separate consent would be required for the indicated felling. That is on the basis that, in coming to a view on the development proposed, full consideration of the impact on amenity of the loss of the trees forms an integral part of the reasoning of the decision maker.

Highway Safety

24. The existing access to Long Acre from Cranfield Road is shared with a neighbouring track which provides access for Anglian Water. The proposed development would be served, in effect, by a wider access with a small overlap of the existing access. This part of Cranfield Road is subject to the national speed limit of 60 mph and the Council's Highway Development Control (HDC) now advises that visibility splays of 2.4m x 215m should be provided on such roads in both directions to minimise danger and inconvenience to highway users. However it appears, from the HDC comments, that a visibility splay of 145m to the north and 215m to the south would be acceptable in this case.
25. Whilst I note the concerns in respect of the splay distances sought, Cranfield Road is comparatively level and straight, with verges for some distance in both directions from the access point. The resultant combined access would be considerably wider than the existing and visibility is good in both directions. I also note that a little way to the south of the access point, on the same side carriageway, there is a warning sign of the up-coming bend at the junction with Crow Lane and a "STOP" road marking, which is likely to reduce traffic speeds past the site to some extent.
26. I have seen no evidence that the use of the existing access has caused safety problems. Moreover, the Council raised no objections in this regard in relation to the outline scheme for up to four dwellings on the appeal site, although access was a matter specifically included for consideration, and the Council proposed a condition requiring that the access be constructed in accordance with the plan Ref 18/170/01 Rev A submitted at that time. The junction arrangements now proposed are the same. No change in highway circumstances since then have been brought to my attention that might justify a different conclusion in terms of the acceptability of the arrangement proposed. Accordingly, as the outline permission for four dwellings remains extant, and given that the proposal is for three dwellings, which of itself would be likely to result in only a relatively modest increase in the use of the access (but, in any event, less than the movements associated with the four approved), I see no reason to come to a different conclusion in respect of the proposed access arrangements.
27. For the reasons set out above I am satisfied that the development proposed would not have an adverse impact on the grounds of highway safety. Accordingly I find no conflict with Policy CT2 of Plan:MK in respect of the effect on highway safety.

Other concerns

28. Neighbours have raised concerns about the potential for overlooking and overshadowing. However, the Council has raised no concerns in these respects and considers that the dwellings are appropriately spaced apart and windows are appropriately located to sufficiently protect privacy. Following my site visit I find no reason to disagree with the Council in these matters.
29. The PPG recognises that landowners are entitled to a premium for land and developers are entitled to a return on their investments³.
30. Third parties have raised concern that allowing the appeal would set a precedent for other dwellings in Long End. However, each application and appeal must be considered on its own merits.
31. The proposal is accompanied by a Preliminary Ecological Appraisal 603 V1 dated October 2019. Subject to appropriate conditions to secure a biodiversity enhancement scheme and management plan, the Council considers the proposal acceptable in this regard and I find no reason to come to a different view.

Planning Balance and Conclusion

32. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications and appeals are determined in accordance with the development plan unless material considerations indicate otherwise. The Framework is a material consideration. The Council advises that a five year supply of deliverable sites to meet housing need can be demonstrated. Little in the way of substantive evidence on this matter has been put to me, other than reference to appeal decisions elsewhere⁴ which reach different conclusions on the matter. If the Council is correct, then the policies most important for determining the application are not out-of-date and the so called tilted balance is not engaged.
33. I find harm arising from conflict with the spatial housing strategy, in that the site is in the open countryside and future occupants would be likely to rely on the private vehicle for access to day to day services and facilities. In addition, the visibility splays as now requested by the Council would not be provided.
34. However, the current appeal site differs from the outline permission site in that a small area of the garden land, previously proposed to remain with Long Acre, would be transferred to the appeal site to provide a straighter garden boundary. With that exception, the remainder of the site is the same and the extant outline permission is a material consideration of considerable weight. I find no reason in this regard, to suppose that the appellant would not seek to pursue the extant permission and note that a reserved matters application Ref 20/00364/REM has been submitted. Whether or not that application has been refused by the Council, I give great weight to the so called "fall back" position of the outline permission.
35. Moreover, the appeal site does not lie within an identified high value landscape and the proposal would make efficient use of previously developed land⁵. I

³ Paragraph: 013 Reference ID: 10-013-20190509 and Paragraph: 018 Reference ID: 10-018-20190509

⁴ APP/Y0435/W/18/3214564 and 3214365; APP/Y0435/W/19/3220584

⁵ The definition of previously developed land excludes gardens in built-up areas only

have found no unacceptable harm to the character and appearance of the area arising from the design, layout and appearance proposed, or the impact on trees and, notwithstanding the shortcomings in the extent of the proposed visibility splays, I find no harm in terms of highway safety. The proposal would help boost the supply of housing in a small way, in accordance with the Framework, whether or not the Council can demonstrate an appropriate five year supply of deliverable housing sites. There would be small economic benefits arising from employment during construction and future residents would help support the vitality of the local community.

36. Taking all the above into account I find there are material considerations that, in this case, justify a decision other than in accordance with the development plan. I therefore conclude that the appeal should be allowed and planning permission granted.

Conditions

37. I have considered whether conditions are necessary in the context of the PPG. In doing so I have taken account of the conditions proposed by the Council and the comments made by the appellant and others. As well as the standard condition specifying the time limits for commencement of development, compliance with the plans is necessary to provide certainty, including compliance with the Tree Survey Report 2019 during development to protect the health of retained trees.
38. Approval of external materials and a fully detailed landscape plan are necessary in the interests of the appearance of the area. As a Tree Protection Plan has already been submitted it is not necessary to require the landscape plan before commencement of development but the details should be indicated on the landscape plan to ensure consistency. Given the scale of the proposal, is it not necessary for details of proximity between streetlights and tree planting; pedestrian access and circulation areas; civic space/public park furniture, play equipment, bins etc.; or substations to be provided. Given the location of the site it is necessary to ensure replacement planting of any lost trees and shrubs continues for a period of five years as previously required. In the interests of nature conservation a Biodiversity Enhancement Scheme and Management Plan before the commencement of development is necessary and appropriate.
39. Conditions relating to drainage and future maintenance are necessary to ensure satisfactory disposal of foul and surface water and to limit the possibility of flooding. However, there is no reason why site preparation should not commence before details are submitted. In the interests of highway safety it is necessary to ensure the proposed access is provided and kept available. Given the extant planning permission it is not reasonable to require the visibility splays proposed by the Highways Officer. However, in the interests of highway safety, and as proposed by an interested party, I consider a Construction Management Plan, to ensure vehicles and materials associated with construction do not obstruct the highway and the verges, is necessary and reasonable.

S Harley

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:
 - Site location and block plan Ref 2019/937/01B
 - Tree Survey Report November 2019 and its Tree Protection Plan.
 - Street Scene plan Ref 2019/937/06
 - Plot 1 Floor Plans and Elevations plan Ref 2019/937/02
 - Plot 3 Floor Plans and Elevations plan Ref 2019/937/04
 - Plot 2 Floor Plans and Elevations plan Ref 2019/937/03A
 - Garages Floor Plans and Elevations plan Ref 2019/937/05
- 3) No development above slab level shall be carried out until details of the materials to be used in the construction of the external surfaces of any buildings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No construction works on the site shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include existing trees and/or hedgerows to be retained and/or removed accurately shown with root protection areas; existing and proposed finished levels or contours; means of enclosure; visibility splays; areas of hard surfacing materials; proposed and existing functional services above and below ground such as cables and pipelines. Soft landscape works shall include planting plans at a minimum scale of 1:200 with schedules of plants noting species, plant supply sizes and proposed densities; written specifications (including cultivation and other operations associated with tree, plant and grass establishment; and the implementation programme.

Development shall be carried out in accordance with the approved details. If within a period of five years from the date of the planting of any tree or shrub, that tree or shrub, or any tree and shrub planted in replacement for it, is removed, uprooted or destroyed, dies, becomes severely damaged or diseased, shall be replaced in the next planting season with trees and shrubs of equivalent size, species and quantity. All hard and soft landscape works shall be carried out prior to the occupation of the buildings or the completion of the development whichever is the sooner or in accordance with a programme previously submitted to and agreed in writing by the Local Planning Authority.
- 5) No development shall take place until a Biodiversity Enhancement Scheme and Management Plan has been submitted to, and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details. No dwelling shall be occupied until the Biodiversity Enhancement Scheme has been carried out as approved, and management shall be in accordance with the approved Management Plan.

- 6) No construction works shall take place until a detailed design, and associated management and maintenance plan, for a foul and surface water drainage scheme, based on sustainable drainage principles for the site has been submitted to and approved in writing by the local planning authority. The management and maintenance plan shall include a detailed timetable for the implementation of the foul and surface water drainage scheme. The approved drainage scheme shall subsequently be implemented in accordance with the approved detailed design and the approved timetable for implementation and shall be retained thereafter.

The management and maintenance plan shall include the following:

A clearly labelled drainage layout plan showing pipe networks and any attenuation ponds, soakaways and drainage storage tanks. This plan should show any pipe 'node numbers' that have been referred to in the network calculations and it should show invert and cover levels of manholes.

The proposed impermeable area.

The proposed method of surface water disposal (using the drainage hierarchy) and evidence to support this

Revised runoff rates (l/s/ha) (if discharging off-site)

Revised runoff volumes (m³/ha) (if discharging off-site)

Total required volume of attenuation (m³)

Detailed SuDs proposals (type, location, size)

Where an outfall discharge control device is to be used such as a vortex control or orifice, this should be shown on the plan with its dimensions and rate of discharge stated.

Calculations should demonstrate how the system operates during a 1% Annual Exceedance Probability (AEP) critical duration storm event, including an appropriate allowance for climate change and urban creep in line with the National Planning Policy Framework Technical Guidance. If overland flooding occurs in this event, a plan should also be submitted detailing the location of overland flow paths including the extent and depth of ponding.

Management/maintenance arrangements (including adopting body).

Formal agreement from third party if discharging into their system.

- 7) No new dwelling shall be occupied until the means of access for vehicles has been constructed in accordance with the approved plan Ref 2019/937/01B. The access shall be retained thereafter.
- 8) No development shall take place, including any works of demolition, until a Construction Management Plan has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for: the parking of vehicles of site operatives and visitors; loading and unloading of plant and materials; storage of plant and materials used in constructing the development. The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

End of Schedule