
Appeal Decision

Site Visit made on 21 June 2021

by Martin Chandler BSc, MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 August 2021

Appeal Ref: APP/Y0435/W/21/3270231

Land adjacent to Main Rd and Cranfield Rd, Astwood MK16 9JU

- 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 Astrum Construction against the decision of Milton Keynes Council.
 - The application Ref 20/01834/FUL, dated 3 September 2020, was refused by notice dated 2 March 2021.
 - The development proposed was originally described as: 'Erection of five dwellings (Resubmission of 20/00887/FUL)'.
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Decision

1. The appeal is allowed and planning permission is granted for Erection of five dwellings at Land adjacent to Main Rd and Cranfield Rd, Astwood, MK16 9JU in accordance with the terms of the application, Ref 20/01834/FUL, dated 3 September 2020, and the plans submitted with it, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Astrum Construction against the decision of Milton Keynes Council. This is the subject of a separate decision.

Procedural Matters

3. In allowing the appeal, I have removed the reference to the previous application from the description of development. This is because the previous submission is not relevant to the appeal that has been allowed.
4. In addition, following the submission of the appeal, a revised National Planning Policy Framework (the Framework) was published. The parties have been consulted in relation to this matter and any comments received have been factored into my assessment of the appeal.

Main Issues

5. The main issues are:
 - i) whether the location of the appeal site is suitable for housing, having regard to the requirements of local policy; and
 - ii) the effect of the proposal on the character and appearance of the area.

Reasons

Location

6. The vision of the Astwood & Hardmead Neighbourhood Plan (2020 – 2031) (NP) is to sustain and enhance rural village life through sympathetic expansion. Policy H1 seeks to establish the housing requirement for the area and identifies that the plan will provide for up to two new homes over the plan period. It also states that other new housing will be considered on windfall sites that lie within the Settlement Boundary of Astwood, in accordance with other policies of the development plan, existing permissions, and other sites that may come forward under permitted development. Finally, the policy allocates a site for housing to provide for the identified housing requirement.
7. The appeal site is not allocated for housing and part of it is located outside of the defined settlement boundary. However, although the red line includes an existing pond located to the south of the proposed houses, this space would not be built upon. Accordingly, the dwellings proposed would be located wholly within the settlement boundary. This would ensure that the proposal would have a meaningful relationship with the surrounding village, and that the proposed houses would not be visually or physically removed from the existing built form. On this basis, the developed space would fall within the settlement boundary, and as a consequence, in my judgement, the proposal should be considered as a windfall site with subsequent scrutiny from other policies of the development plan as required by the NP.
8. The NP is yet to be 'made' and consequently, this prevents full weight being given to it. Nevertheless, the plan is at a fairly advanced stage and I am therefore satisfied that moderate weight should be given to its requirements. However, regardless of the weight to be given to the NP, in my judgement, the proposal would not directly conflict with the requirements of Policy H1 as it would represent a windfall site that lies within the settlement boundary. Consequently, having regard to local policy, I conclude that the location of the appeal site would be suitable for housing. It would therefore comply with Policy H1 of the NP, the requirements of which are set out above.

Character and Appearance

9. The appeal site consists of an undeveloped parcel of land that is contained on three sides by dense and mature vegetation. It is located close to the 'T' junction of Cranfield Road and Main Road. Opposite the site is a row of detached dwellings, and to the north, on Main Road, a developed frontage lines the curved highway. In addition, there is established built form to the west and north west of the site. Accordingly, the appeal site is both visually and physically close to existing development.
10. The proposal would introduce five dwellings onto the site. To do this, much of the vegetation that forms the eastern boundary of the site would be removed to facilitate the proposed vehicular access. Two detached houses would front Cranfield Road, with three properties located towards the rear of the site, with a parking courtyard occupying the centre of the site.
11. Due to the location of the dwellings, glimpses of the buildings would be achieved from Main Road. In addition, the proposal would allow for clear views into the site from Cranfield Road. Accordingly, the appearance of the site would

fundamentally change as a result of the development. However, the new dwellings would be experienced within the context of the surrounding built environment, and due to their location, they would be visually and physically connected with existing buildings. In this respect, they would not be anomalous within the immediate environment. Moreover, through the retention of the dense landscaping to the southern boundary of the site, long views from Cranfield Road would not substantially change. Accordingly, the proposal would be suitably respectful to the adjacent open countryside.

12. The proposal would seek to introduce gates to the vehicular access and in this regard, I agree with the Council that this would represent an overly elaborate entrance for the semi-rural location. However, I also note that the appellant is content to resolve the proposed entrance through the use of a suitably worded condition. I am satisfied that this approach would mitigate the harm of the proposed gates and in my judgement, the use of such a condition would adequately comply with the tests established within the National Planning Policy Framework.
13. Accordingly, for the reasons identified above, I conclude that the proposal would not harm the character and appearance of the surrounding area. It would therefore accord with Policies D1 and D2 of Plan:MK (2019), which taken together, seek amongst other things, high quality design which responds appropriately to surrounding context.

Other Matters

14. The proposal would increase vehicular movements to and from the site. However, I have no compelling evidence before me to suggest that highway safety concerns currently exist. I note that no objection was raised by the Council in relation to highway matters and based on the evidence before me, I have no reason to disagree.
15. I also note the concerns regarding ecological matters, but I am satisfied that subject to the imposition of necessary conditions, this matter can be satisfactorily controlled. Finally, although no direct provision would be made for the storage of waste, I am satisfied that the layout of the development is such that this matter need not be visually intrusive.

Conditions

16. In light of my findings, conditions 1 and 2 are necessary in the interests of clarity and precision. Condition 3 is necessary to levels are sensitive to surrounding development, condition 4 is necessary to secure a suitable drainage scheme for the site, and condition 5 is necessary due to archaeological sensitivities. Conditions 6 – 11 are necessary to conserve biodiversity, and condition 12 is necessary in the interests of highway safety.
17. Conditions 13 – 15 are necessary to secure a high standard of design and landscaping, and conditions 16 – 18 are necessary to protect existing trees. Conditions 19 and 20 are necessary to provide appropriate parking facilities for both car and bicycle, and finally, condition 21 is necessary to promote the use of more sustainable vehicles.
18. Where the imposed conditions require details to be agreed prior to the commencement of development, the appellant has confirmed their acceptance in writing.

Conclusion

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

Martin Chandler

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin before the expiration of three years from the date of this permission.
- 2) The approved development shall be carried out in accordance with the following drawings/details: 547-P1-02 Plot 1 – Proposed elevations; 547-P2-02 Plot 2 – Proposed elevations; 547-P3-P4-P5-03 Plot 3, 4 + 5 – Proposed elevations; 547-P3-P4-P5-01 Plot 3, 4 + 5 – Proposed GF plans; SJA488.03.0 Tree and Ground Protection Plan; 547-02A External Works Plan; 547-10 Street elevations; 547-P1-P2-01 Plot 1 + Plot 2 - Proposed plans; SJA488.02.0 Arboricultural Implications assessment plan; SJA488.04.0 Soft Landscape proposals; Impact Plan for great crested newt district licencing, dated 3rd July 2020; 547-01A Existing Site plans; 547-03B Proposed Site Plan; 547-50 Zoning Plan. Plan received on 21/12/2020; SK-002 rev 4 Drainage Strategy Schematic; 547-P3-P4-P5-02A Plot 3, 4 + 5 – Proposed FF plans.
- 3) No development shall take place until details of the proposed finished floor levels of all buildings and the finished ground levels of the site, in relation to existing site levels of surrounding property, has been submitted to and approved by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved levels.
- 4) Prior to the commencement of any development, including preparatory works, a detailed surface water drainage scheme for the site, based on the Flood Risk Assessment and Drainage Strategy Report, prepared by Quad Consult Limited, Rev. 3, dated April 2020, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the proposed drainage improvement works within the public highway (including attenuation features, pipe work, controls and outfalls) and a management and maintenance plan for those elements which are not to be adopted by a statutory undertaker or the local highway authority. The improvement works within the public highway shall be implemented in full accordance with the approved details prior to the creation of a hard surface or construction of a building, whilst all remaining elements of the drainage system shall be implemented in full accordance with the approved details prior to occupation of each respective dwelling and associated hard surfaces. For the avoidance of doubt, the developer may be required to enter into an agreement under section 278 of the Highways Act 1980.
- 5) Prior to the commencement of the development an archaeological field evaluation comprising trial trenching shall be completed. The archaeological evaluation shall be detailed in a Written Scheme of Investigation (WSI) submitted to and approved by the Local Planning Authority in writing. On completion of the archaeological field evaluation a further WSI for a programme of archaeological mitigation in respect of any identified areas of significant buried archaeological remains shall be submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no development shall take place other than in accordance with the agreed WSI, which shall include a statement of significance and research objectives; and:

- a) The programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works;
- b) The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material.

This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.

- 6) A detailed climbing inspection of any trees with significant ivy cover that will be lost and an updated Bat Roost Tree Survey including further investigations into possible bat roosts shall take place prior to the commencement of any works on site. The report(s) along with any mitigation measures recommended shall then be submitted to and approved by the Local Planning Authority. If mitigation measures are required, these shall be in place prior to commencement of any works on site.
- 7) All measures and recommendations set out in the Bat Roost Tree Survey received on 28/07/2020; shall be followed/implemented at the appropriate stage of the development.
- 8) Notwithstanding the approved plans, no development shall take place until a Biodiversity Enhancement Scheme and a lifetime 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 prior to the occupation of the development.
- 9) No development hereby permitted shall take place except in accordance with the terms and conditions of the Council's organisational licence (WML-OR25-2020-1) and with the proposals detailed on plan Land off Cranfield Road, Astwood: Impact plan for great crested newt district licensing', dated 3rd July 2020.
- 10) No development hereby permitted shall take place unless and until a certificate from the Delivery Partner (as set out in the District Licence WML-OR25-2020-1), confirming that all necessary measures in regard to great crested newt compensation have been appropriately dealt with, has been submitted to and approved by the Local Planning Authority and the Local Planning Authority has provided authorisation for the development to proceed under the district newt licence. The Delivery Partner certificate must be submitted to and approved by the Local Planning Authority prior to the commencement of the development hereby approved.
- 11) No development hereby permitted shall take place except in accordance with Part 1 of the GCN Mitigation Principles, as set out in the District Licence WML-OR25-2020-1 and in addition in compliance with the following:
 - Works which will affect likely newt hibernacula may only be undertaken during the active period for amphibians.
 - Capture methods must be used at suitable habitat features prior to the commencement of the development (i.e. hand/destructive/night searches),

which may include the use of temporary amphibian fencing, to prevent newts moving onto a development site from adjacent suitable habitat, installed for the period of the development (and removed upon completion of the development).

- Amphibian fencing and pitfall trapping must be undertaken at suitable habitats and features, prior to commencement of the development.

- 12) No part of the development shall begin until details of the new access, excluding gates, have been submitted to and approved in writing by the local planning authority. The development shall not be occupied until the access has been sited and constructed in accordance with the approved details.
- 13) No development shall take place above slab level until a schedule of the external materials and sample panels of the materials to be used in the construction of the development have been erected on site and submitted to, and approved in writing by, the Local Planning Authority. The development shall thereafter be carried out in full accordance with the approved details prior to the first occupation of the development.
- 14) Notwithstanding the approved details, prior to their installation, details of the proposed boundary treatments shall have been submitted to and approved in writing by the Local Planning Authority. The details shall include a boundary treatment plan (at a minimum scale of 1:500) detailing the position of all proposed boundary treatment and annotated or accompanied by a schedule specifying the type, height, composition, appearance and installation method of boundary treatment throughout the site. The development shall be carried out in accordance with the approved details prior to the occupation of any part of the development and shall thereafter be retained in that form.
- 15) Notwithstanding the approved drawings, no development shall take place above slab level until full 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 visibility splays; areas of hard surfacing materials; proximity between street lights and tree planting; pedestrian access and circulation areas; proposed and existing functional services above and below ground such as cables. Soft landscape works shall include full details of replacement tree, shrub and hedge planting in accordance with BS 8545: 2014 to be submitted for approval as part of a general landscaping scheme where appropriate, and which should include full details of tree and shrub sizes, species, planting locations, planting spacings, preplanting ground preparations, planting method and long term maintenance. Particular attention should be paid to ensuring the trees are planted in a sufficient quantity of high quality growing medium, to ensure their quick establishment and the early provision of maximum benefit to the locality. Tree species must be chosen to maximise biodiversity, climate change resilience and human interest.

Development shall be carried out in accordance with the approved details prior to the occupation of the development . 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

- 16) All existing trees, woodlands and hedgerows to be retained as shown on the approved plans shall be fully protected in accordance with the latest British Standards (currently BS 5837:2012 'Trees in relation to design, demolition and construction-Recommendations') by the time construction begins. All protective measures must be in place prior to the commencement of any building operations (including any structural alterations, construction, rebuilding, demolition and site clearance, removal of any trees or hedgerows, engineering operations, groundworks, vehicle movements or any other operations normally undertaken by a person carrying on a business as a builder). 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. All protective measures shall be maintained in place and in good order until all work is complete and all equipment, machinery and surplus materials have been removed from the site.

Signs informing of the purpose of the fencing and warning of the penalties against destruction or damage to the trees and their root zones shall be installed at minimum intervals of 10 metres and a minimum of two signs per separate stretch of fencing.

- 17) Tree root protection areas shall be protected from construction damage by use of nil excavation, raised construction methods for hard-surfacing. Full details of the nil excavation cellular confinement system for hardstanding construction shall be submitted for approval, demonstrating that it is both specifically tailored to and feasible in this site context particularly in terms of marrying-in to finished levels. Details of the protocol for altering the BS5837:2012 protective fencing and ensuring the root protection areas remain undamaged during the construction of the nil excavation works shall also be submitted for approval prior to the commencement of any works on site.

No posts should be installed closer than 1 metre to tree trunks, post holes should be carefully hand dug within the tree canopy spread so that when roots are encountered no damage is caused to them. If roots larger than 25mm diameter are encountered the hole should be repositioned to avoid having to cut them. When cutting roots less than 25mm diameter in order to make the post holes, prune them back cleanly with sharp, clean pruning saws or bypass loppers/secateurs making level, smooth right angle cuts with no ragged edges, flush with the side of the hole. Line the post holes with a plastic membrane such that when the foundation concrete is poured it cannot come into contact with the soil or the cut root ends before it sets. When working within the tree canopy spread take good care not to cause damage to the soil or any part of the tree above or below ground, particularly avoid; physical damage to branches and trunk with tools, equipment and machinery; compacting the soil by machinery/vehicle movement; and contaminating the soil with substances such as cement, fuels, oils, bitumen, tars, etc.

- 18) If construction-facilitation pruning of the trees is required, this should be carried out by a competent, qualified and experienced tree surgeon according to the provisions of BS 3998: 2010 and current arboriculture industry best practice. The Local Authority arboriculture officer shall be given a weeks notice before the works are carried out so they have the opportunity to attend on site and agree the exact extent of the works with the tree surgery contractor.
- 19) Prior to the occupation of the development hereby permitted the car parking area shown on the approved drawings shall be constructed, surfaced and permanently marked out. The car parking area so provided shall be maintained as a permanent ancillary to the development and shall be used for no other purpose thereafter.
- 20) Prior to the first occupation of the development hereby permitted details of the proposed bicycle parking shall be submitted to and approved in writing by the Local Planning Authority and the scheme approved shall be provided and be retained thereafter.
- 21) Prior to the first occupation of the development hereby permitted, the required electric vehicle charging points shall be fully installed and be retained thereafter.