



Appeal Decision

Site visit made on 9 May 2022

by B Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 May 2022

Appeal Ref: APP/J0405/W/21/3285501

Land adjacent 4 Walnuts, Aston Abbotts Road, Cublington LU7 0LG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for Technical Details Consent.
 - The appeal is made by Mr Giles Holder, on behalf of Laxton Properties (Developments) Ltd and W Lamb (Developments) Ltd, against Buckinghamshire Council - North Area (Aylesbury).
 - The application Ref 21/01248/APP, is dated 23 March 2021, sought consent pursuant to permission in principle Ref 19/04442/PIP, granted on 26 February 2020.
 - The development proposed is the erection of three detached and two semi-detached dwellings with associated infrastructure and landscaping.
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Decision

1. The appeal is allowed, and Technical Detail Consent is granted for the erection of three detached and two semi-detached dwellings with associated infrastructure and landscaping at Land adjacent 4 Walnuts, Aston Abbotts Road, Cublington LU7 0LG in accordance with the terms of the application, Ref 21/01248/APP, dated 23 March 2021 and subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The application was not determined by the Council within the statutorily prescribed 5-week timeframe. As such, following the submission of an appeal it falls to me to determine whether Technical Details Consent should be given.
3. The Council has since indicated that had it determined the application it would have found the proposal to be out of character, to include a mix of house types was not required in the area and failed to provide the required mitigation towards local infrastructure. The Council considers that the proposal would conflict with policies BE2, NE4, S1, BE1, H6a, S5, I1, I2, I3 and H1 of the Vale of Aylesbury Local Plan 2013-2033 (2021) (LP).
4. The proposal is for Technical Details Consent following the grant of Permission in Principle. The Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle has established that the location, land use, and amount of development is suitable in principle. The Technical Details Consent, that is the subject of this appeal, can consider the remaining detailed matters but cannot reopen what has been agreed at the Permission in Principle stage.
5. The PPG indicates that other statutory requirements may apply at the TDC stage. This would include duties relating to listed buildings and conservation

areas under the Listed Buildings and Conservation Areas Act 1990. I have determined this appeal on that basis.

6. A S106 Planning Agreement, in the form of a Unilateral Undertaking¹, has been submitted. This commits the appellant to the payment of a sport and leisure contribution to the Council prior to the first occupation of any dwelling. I shall return to this matter later in my decision.

Main Issues

7. The main issues are:

- The effect of the proposal on the character and appearance of the area;
- Whether the proposed scheme would meet the needs of the local area with respect to the proposed mix of house types; and
- The effect of the proposed development on local infrastructure.

Reasons

Character and appearance

8. Cublington is a small village within the open countryside. The majority of dwellings within Cublington Conservation Area (CCA) are generally within shallow plots and consist of a traditional rural character. However, more contemporary housing, beyond the CCA boundary have a greater diversity of styles and scales and are largely within cul-de-sac layouts. The appeal site is a former equestrian centre. It includes a large barn with a dwelling located between the barn and the highway. The site is largely open, with the barn being placed near the rear boundary of the site. As such, the site makes a positive contribution to the rural character of the area.
9. The appeal site is within the setting of CCA. However, the site is screened from the majority of views from CCA, behind mature tree cover located within adjacent gardens and field boundaries. Furthermore, the development plot is recessed from the highway and set behind boundary hedging and is discrete within the streetscene. Moreover, views of the existing barn are largely screened from the right of way (Cub/9/1) to the north of the site, although it is revealed in occasional glimpses. As a result, the proposed dwellings would not be especially visible from viewpoints within the village.
10. The site is also close to two listed buildings, being Old Manor Cottage and Southend Farm. Old Manor Cottage, on Wing Road, is a substantial distance from the appeal site. It is a brick dwelling with dormer windows and two brick stacks, set close to the highway. Its significance derives from its architectural interest and traditional form. Southend Farm is a large brick building that originates from C17. It is timber framed with decorative brick detailing including red and vitreous brick, red quoins and some chequer brick sections. This building's significance appears to derive from its architectural interest and its rural character.
11. The site is within the Quainton - Wing Hills, special landscape area. The Council's landscape assessment² defines this area's significance as an

¹ Unilateral Undertaking dated 20 May 2022

² Defining the special qualities of local landscape designations, March 2016

undulating landform that is generally open with some spectacular panoramic views. The appeal site is enclosed by tree screening to its north side, with field boundary screening to its rear preventing especially long views to the east. It is largely open to its south providing views of the wider countryside. Nevertheless, the existing barn structure is substantially larger than the footprint and mass of the proposed scheme.

12. The proposed development would therefore have a substantially reduced visual impact, in comparison to the existing form of development, on the surrounding area. Moreover, wider views of the settlement from the distant south would observe the proposal with the existing settlement as a backdrop. Also mitigating landscaping, as offered by the appellant's Landscape Visual Impact Assessment, would assist in softening the development within this rural setting. Accordingly, the proposal would be a sensitive form of development that would complement the wider rural landscape.
13. The proposed development would consist of five dwellings arranged around a courtyard and would create a cul-de-sac. This configuration would visually join to the existing dwelling on site and form a coherent pattern of development. The dwellings would be large but would include first-floor dormer windows to maintain a low roof profile. The designs would include projecting gables and cat slide roofs to promote a rural vernacular. Each dwelling has been individually designed, with a variety of form. These would be a complementary group by sharing window design, materials and general scale. The proposal therefore would combine layout, form and character in a manner that would represent a well-designed form of development as sought by the National Design Guide.
14. The proposal would have a negligible visual association with the CCA and the nearby listed buildings, due to separation distances and boundary screening. Paying regard to the statutory duties to consider the effect of the proposal on heritage assets, I am content that it would preserve these settings. Consequently, for the above reasons, the proposed development would maintain the rural character of the site and make a positive contribution to the character and appearance of the area.
15. Accordingly, the proposal would satisfy policies BE1, BE2, NE4 and S1 of the LP and the Framework. These seek, among other matters, for development to complement the local distinctiveness and vernacular character of the locality and minimise its impact on visual amenity.

Mix of house types

16. Policy 6a of the LP requires a mix of homes to be delivered in new residential development, having regard to the Council's latest evidence. The Council's Housing and Economic Development Needs Assessment, undertaken in 2016 found that a majority need for housing, with a need for some flats. Table 102, of the LP, establishes a guide for the proportion of sizes of homes needed over the plan period. This found a greatest need for 3 bed homes at 51%, with all one, two and three bed housing amounting to an overall requirement of 73%. These figures are stated as guidelines only and are not especially up to date.
17. The Council's Housing Delivery Statement shows that 75% of new housing built in the period between April 2020 and March 2021 were for one, two and three bed housing, slightly exceeding the policy expectation. This has resulted in a

general increase in smaller housing and shows that there is still a requirement, albeit limited, for the delivery of four and five bed dwellings.

18. The proposal would consist of two 5 bed and three 4 bed houses. Being for a limited number of dwellings this mix would not materially unbalance the general aspirations of policy H6a. It would also result in the delivery of family housing in an appropriate location as sought by the Framework. Consequently, for the above reasons the proposal would comply with LP policy H6a.

Infrastructure

19. The PPG advises that Local planning authorities may agree planning obligations at the Technical Details Consent stage where the statutory tests have been met. LP policy I2 requires development, with a gross floorspace of over 1000 square metres, to contribute towards sport and recreation facilities. The Council's Parks and Recreation Team calculate that a sum of £24,060 would be required to meet this policy. However, the Council has failed to indicate where and how the contribution would be spent. Consequently, I am unconvinced that the identified infrastructure sum would be necessary to make the development acceptable, or be directly related to the development, as sought by the Framework. As a result, the submitted UU is not necessary.
20. Policy H1 of the LP requires the scheme to deliver 25% affordable housing on residential development of 11 or more dwellings or on sites over 0.3ha. As the site area is greater than 0.3ha the policy would apply. However, paragraph 64 of the Framework is clear that to support the re-use of brown field land, where vacant buildings are being reused or redeveloped, any affordable housing should be reduced by a proportionate amount. Footnote 30 explains that this means that this reduction should be equivalent to the existing gross floorspace. In this case the Vacant Building Credit and requirements of the Framework would outweigh the objectives of policy H1, and no affordable housing would be required.
21. As a result, the proposal would have no impact on infrastructure that would be required to be addressed through a planning obligation. Consequently, the proposal would accord with policies S1, S5, I1, I2, I3 and H1 of the LP. These seek development to, inter alia, provide appropriate on and off-site infrastructure to avoid or mitigate social, economic and environmental impacts.

Conditions

22. I have considered the use of conditions in line with the guidance set out in the Government's Planning Practice Guidance (PPG). The default duration of 'permission in principle' is 3 years, with the Technical Detail Consent to be determined during this period. If it is not implemented within this timeframe, then the permission in principle would lapse. A such a timeframe condition associated with this decision would not be necessary. I have imposed the standard conditions with respect to approved plans as advised by the PPG for clarity and certainty. I have also imposed most conditions sought by the Council, with some alterations for reasons of clarity and simplicity.
23. Conditions are necessary with respect to details of materials, means of enclosure, landscape details and for potential replacement planting in the interests of the area's character and appearance. Conditions are also necessary

to require an improved access, on-site turning and hardstanding to be installed prior to occupation in the interests of highway safety.

24. The appellant's Ecological Assessment and Biodiversity Net Gain Assessment made a number of recommendations to protect the habitat of several animals. Conditions are therefore required for a Landscape Environmental Management Plan, and the submission of a lighting scheme, to comply with these recommendations and LP policy NE1. Also, a condition is necessary for the submission of a surface water drainage scheme to satisfy the requirements of the Lead Local Flood Authority and comply with LP policy I4. Furthermore, a condition that seeks the provision of electric charging points is required to satisfy LP policy T8.
25. The Council has suggested a condition that seeks to remove several permitted development rights, with respect to the enlargement of the dwellings and the erection of outbuildings. However, the Framework advises that conditions should not be used to restrict permitted development rights unless there is clear justification to do so. Despite the site's rural location, it is not prominent within the countryside and there is therefore no compelling reason to withdraw these rights.

Conclusion

26. The proposed development would preserve the character and appearance of the area, with a suitable mix of dwellings, and would accord with the development plan when taken as a whole. Therefore, for the above reasons, the appeal is allowed and planning permission is granted subject to the attached conditions.

B Plenty

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan draw ref: 21 LAWC SL01, Wider Site Plan draw ref: 21 LAWC SP007 rev C, Proposed site section draw ref: 20 LAWC SS01, Plot 1 elevation and floor plan draw ref: 21 LAWC PE 001 rev C, Plot 2 and 3 Elevation and Floor plan draw ref: 21 LAWC PE 002 rev B, Plot 4 elevation and floor plan draw ref: 21 LAWC PE 004 rev C, Plot 5 elevation and floor plan draw ref: 21 LAWC PE 005 rev C, Proposed site plan draw ref: 20 LAWC SP004 rev H, Soft landscape proposals draw ref: ART202.04.0 and Drainage Strategy draw ref: 18882-CUBL-5-100 Rev. A.
- 2) Before above groundworks commence on the approved dwellings, samples/details of the materials proposed to be used on the external surfaces of the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out using the approved materials unless otherwise agreed in writing by the Local Planning Authority.
- 3) Prior to the occupation of each of the dwellings hereby permitted, one electric vehicle charging point shall be installed for the dwelling. Each vehicle charging point shall be a minimum of a 7.4 kW 32A or higher Type 2 electric vehicle charger.
- 4) Prior to the first occupation of the development hereby permitted, a "lighting design strategy for biodiversity" for the development shall be submitted to and approved in writing by the local planning authority. The strategy shall: a) identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and b) show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places. Thereafter, all external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy.
- 5) Before above groundworks commence on the approved dwellings, a Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority. This shall include measures to protect existing habitat during construction works and the formation of new habitat to secure a habitat compensation and biodiversity net gain of no less than the proposed 0.75 Biodiversity Units and 1.08 hedgerow units. The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved

- scheme. The approved plan shall be implemented in accordance with the approved details.
- 6) No part of the development shall be occupied until the existing means of access has been laid out in accordance with the approved drawing and upgraded and constructed in accordance with the Buckinghamshire Council guide note "Commercial Vehicular Access within the Public Highway".
 - 7) The scheme for parking and manoeuvring indicated on the submitted plans shall be laid out prior to the first occupation of the development hereby permitted and that area shall not thereafter be used for any other purpose.
 - 8) No works (other than demolition) shall begin until a surface water drainage scheme for the site, based on sustainable drainage principles has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.
 - 9) Before above groundworks commence on the approved dwellings, full details of both hard and soft landscape works shall be submitted to and approved in writing by the Local Planning Authority. For hard landscape works, these details shall include proposed finished levels or contours and hard surfacing materials. For soft landscape works, these details shall include new trees and trees to be retained showing their species, spread and maturity, planting plans and written specifications and schedules of plants. These works shall be carried out as approved prior to the first occupation of the development so far as hard landscaping is concerned and for soft landscaping, within the first planting season following the first occupation of the development or the completion of the development whichever is the sooner.
 - 10) Any trees or plants 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.
 - 11) Before above groundworks commence on the approved dwellings, details of all screen and boundary walls, fences and any other means of enclosure shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter only be carried out in accordance with the approved details and the buildings hereby approved shall not be occupied until the details have been fully implemented.

End of conditions