



Appeal Decision

Site visit made on 3 October 2023

by J Gunn DipTP, DipDBE, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 October 2023

Appeal Ref: APP/J0405/W/23/3319615

Land adjacent to Ebenezer Cottage, Bicester Road, Woodham, Aylesbury, Bucks HP18 0RA

- 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 Alan Slater against the decision of Buckinghamshire Council - North Area (Aylesbury).
 - The application Ref 22/02423/APP, dated 5 July 2022, was refused by notice dated 5 October 2022.
 - The development proposed is described on the application form as 'Detached four bedroom dwelling with detached garage.'
-

Decision

1. The appeal is allowed and planning permission is granted for a Detached four bedroom dwelling with detached garage at Land adjacent to Ebenezer Cottage, Bicester Road, Woodham, Aylesbury, Bucks HP18 0RA in accordance with the terms of the application, Ref 22/02423/APP, dated 5 July 2022, subject to the conditions contained in the attached schedule.

Preliminary Matters

2. I have been provided with a copy of an update to the Five year Housing Land Supply Position Statement for the Aylesbury Vale area, dated September 2023, which indicates that there is a 4.5 year supply of deliverable housing land. This represents a change to the situation that existed at the time the Council determined the application, which indicated that, based on a position statement published in April 2022 a supply of 5.2 years' worth of deliverable housing supply could be provided against its local housing need. Both main parties have had an opportunity to comment on this changed situation, and any response received has been taken into account in my decision. Consequently, I am satisfied that no party is disadvantaged by this situation.
3. I note that the front and rear elevations on the submitted drawing No. EDL1927-2.01 Rev A are incorrectly annotated. That said, it is clear to me what is proposed. I have proceeded on the basis that what is depicted as the rear elevation is the proposed front elevation and that shown as the front elevation is intended to be the rear elevation.

Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

5. The appeal site is located within a small hamlet, on a busy main road, in a rural setting. The properties in the settlement are predominantly residential, albeit there are some noticeable commercial enterprises within it. The buildings in the locality have a wide range of designs and have evolved over a period of time resulting in a varied pattern of buildings in terms of location, scale, and design. They utilise a varied palette of materials.
6. The proposed development would introduce a two storey dwelling onto a vacant plot of land that sits between Ebenezer Cottage and two office buildings. Ebenezer Cottage is a traditional two storey detached dwelling, set a short distance back from the highway. It extends a modest distance into its plot and has a mix of rendered and brick walls, a plain tiled roof and small windows resulting in a pleasant composition. The office blocks are more modern additions to the locality. The one nearest the appeal site is set a considerable distance back from the road behind a surfaced car park, with landscaping at the front of the site. In comparison to its neighbours, it is larger in size and scale. The use of brick and modern roof tiles in its construction, combined with limited window openings further emphasises its commercial use and sets it apart from its domestic neighbours.
7. I note that the Council has no objection in principle to the erection of a dwelling on the appeal site and are not opposed to a modern design approach. However, they are concerned about the size, depth and scale of the proposal, and in particular the impact of the flank wall facing south east. I noted on my site visit that properties in the locality varied considerably in size, with some of the dormer bungalows having large footprints and occupying a significant proportion of their plots. In other instances, more modest sized dwellings had more constrained dimensions. That said, some of the dwellings extended some distance back into their plots. Therefore, as a matter of principle I do not accept that a dwelling of the size depth and scale as proposed would be out of character with the properties in the locality.
8. Notwithstanding the above, I acknowledge that the flank wall of the proposed dwelling would be visible from the south east on the approach into the settlement. However, any views would be limited by the existing office building located a short distance to the east, which sits directly adjacent the footpath, and the trees located to the front of the office car park. Furthermore, views of the proposed dwelling would be seen within the context of other properties on the northern side of the A41. Any views would not extend much beyond the junction of the A41 with Grendon Road. I have also taken into consideration the varied materials, and window openings, that are proposed in the flank elevation. These features would provide visual interest to what would otherwise be a large bland elevation. Therefore, whilst noting the Council's concern about the impact these features will have on the overall appearance of the proposed dwelling, in my judgement, they would help break up the mass of the building and help assimilate it into its surroundings.
9. Taking all of the above matters into consideration, I conclude that the proposed development would not conflict with policies D5 and BE2 of the Vale of Aylesbury Local Plan which, amongst other matters, seek to prevent any adverse effect on the character of the countryside and support developments that respect and complement the physical characteristics of the site and its

surroundings. In addition, the proposal would meet the aims and aspirations of the Framework and the National Design Guide which jointly seek to promote well designed new development that responds positively to its surroundings, including layout, form, scale, appearance, details and materials.

Other Matters

10. Paragraph 11 of the Framework states that plans and decisions should apply a presumption in favour of sustainable development. Paragraph 11 goes on to say, in its 'decision-taking' section this means where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
11. The latest Five year Housing Land Supply Position Statement indicates that the Council cannot provide a 5 year supply of housing land. That said, the Council based its decision Policy D5, which relates to Housing at other settlements, and Policy BE2 - Design of new development. These policies, which were adopted in September 2021, apply throughout the district and appear to be the most important policies for determining this appeal. In my view these policies are not out of date.
12. The Framework refers to high quality design. For the reasons set out above I have come to a different conclusion to the Council with regards to this matter. I have also taken into account that the Council has no objection in principle to the erection of a dwelling on the appeal site which accords with Policy D5. Consequently, when assessed against the policies in the Framework as a whole, any adverse impact of the proposal does not significantly outweigh the benefits of an additional home on an infill site. Consequently, the presumption in favour of sustainable development indicates that permission should be granted.
13. I note that the Council has previously refused an application for planning permission for a dwelling on the appeal site on design grounds. That said, no substantive evidence has been provided that would enable me to make a comparison between the schemes. Consequently, I have made my decision based on the planning merits of the proposal before me.
14. Although not a reason for refusal the Council has expressed concerns regarding views from the rear balcony into the gardens of Ebenezer Cottage. They indicate in their officers report that this could be addressed by a condition requiring the provision of a privacy screen in accordance with details to be agreed, albeit no draft condition has been submitted for me to consider in that regard. From what I have seen and read I accept that there would be potential overlooking from the balcony and further accept that a condition would be a means of addressing this issue.

Conditions

15. In the interest of clarity and precision, conditions are necessary to specify the time limit for implementing the development (1) and to specify the relevant drawing numbers (2).
16. A condition requiring details of existing and proposed levels and the relationship to neighbouring properties is necessary to ensure that there is

- satisfactory form of development in terms of design and residential amenity (3).
17. A condition is necessary to prevent harm to protected species namely great crested newts (4).
 18. Conditions requiring the submission and provision of cycle facilities (5) and the submission and compliance with an energy efficiency statement (6) are necessary to ensure the provision of sustainable travel options and to achieve greater energy efficiency during the lifetime of the development.
 19. The Council has requested a condition requiring the proposed development to be constructed in the materials specified on the approved plan. However, I have imposed a condition requiring submission of details of external materials (7) for agreement as these are not specified with any precision on the approved plans or application form.
 20. A condition requiring hard surfaced areas to be made of porous materials is necessary to reduce the risk of flooding (8). Conditions are necessary to ensure the delivery of on-site parking, garaging and manoeuvring (9) in order to minimise danger, obstruction and inconvenience to other road users, and the provision of an electric charging point to encourage sustainable travel (10).
 21. I have imposed a condition relating to landscaping of the development site and combined this with a requirement to maintain it thereafter (11). Means of enclosure should form part of the landscaping scheme and should be provided prior to occupation to safeguard the amenity of neighbouring properties (12).
 22. A condition is necessary to ensure that the development is acceptable from an ecological perspective (13).
 23. Conditions are necessary to ensure to delivery of an accessible and adaptable dwelling (14) and to limit water supply (15), in the interests of sustainability.
 24. The Planning Practice Guidance advises against the inclusion of conditions which restrict permitted development rights. The Council states that a condition requiring the removal of permitted development rights is necessary in order to consider whether planning permission should be granted for the enlargement of the dwelling or erection of an outbuilding, windows, buildings, structures or means of enclosure. However, I do not consider this is necessary given that the principle of development is acceptable in this location and the site does not lie within a protected area, such as a Green Belt or Conservation Area.
 25. The provision of a bin storage area in a designated location is considered necessary, and a condition has been applied in this regard (16).
 26. A condition is necessary requiring details of privacy screens to the rear first floor balcony to be agreed and provided thereafter, thereby protecting the amenity of occupiers of Ebenezer Cottage (17).
 27. I am not persuaded that a condition is necessary to prevent the use of the front ground floor flat roof section being used as an external amenity space, roof terrace or balcony. The area in which it is located is open to public view and any views from such a facility towards the neighbouring property Ebenezer Cottage would be severely restricted.

Conclusion

28. There are no relevant material considerations to indicate the application should be determined otherwise than in accordance with the development plan, when considered as a whole. For the reasons given above, I therefore conclude that the appeal should be allowed subject to the conditions set out below.

J Gunn

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the details contained in the planning application hereby approved and approved plan EDL1927-2.01 Rev A as received by the Local Planning Authority on 5 July 2022.
3. Prior to the commencement of any works on site, detailed plans, including cross sections as appropriate, showing the existing ground levels and the proposed slab and finished floor levels of the dwelling hereby permitted along with a scaled street scene elevation showing the adjoining neighbouring properties shall be submitted to and approved in writing by the Local Planning Authority. Such levels shall be shown in relation to a fixed datum point normally located outside the application site. Thereafter, the development shall not be constructed other than as approved in relation to the fixed datum point.
4. Prior to the commencement of any development, a precautionary method statement shall have been submitted to and approved in writing by the Local Planning Authority. This is to include details of reasonable avoidance measures for great crested newts. The development shall thereafter proceed in accordance with the approved precautionary method statement.
5. Notwithstanding the approved plans, prior to development above slab level of the dwelling hereby approved, details of secure, covered and lockable bicycle storage shall be submitted to and approved in writing by the Local Planning Authority. The cycle storage shall thereafter be installed in accordance with the approved details prior to first occupation of the dwelling and thereafter retained for the lifetime of the development.
6. Prior to any development above slab level of the development hereby approved, an energy statement shall be submitted to and approved in writing by the Local Planning Authority. The energy statement shall detail the ways in which the development will achieve greater efficiency in the use of natural resources, including measures to minimise energy use, and promote waste minimisation and recycling. It shall also illustrate how the proposed development incorporates the following energy hierarchy:
 - Reducing energy use, in particular by the use of sustainable design and construction methods;
 - Supplying energy efficiently and giving priority to decentralised energy supply;
 - Making use of renewable energy;
 - Making use of allowable solutions;

The development shall thereafter be implemented in accordance with the approved energy statement.

7. Notwithstanding any indication of materials which may have been given in the application, a schedule and/or samples of the materials and finishes for the development shall be submitted to and approved in writing by the Local Planning Authority before any work to the external finish of the development takes place. Thereafter, the development shall not be carried out other than in accordance with the approved details.
8. The hard surfaced areas hereby permitted as shown on the approved plan shall be made of porous materials, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwellinghouse.
9. Prior to first occupation of the development hereby permitted, the areas shown for parking, garaging and manoeuvring as indicated on approved plan DL1927-2.01 Rev A shall be laid out and those areas shall thereafter be retained and shall not be used for any other purpose.
10. Prior to the first occupation of the development hereby permitted, a minimum of one electric vehicle charging point shall be provided to serve the dwelling and shall thereafter be retained as such and maintained to a useable standard in accordance with the manufacturers recommendations for the lifetime of the development.
11. Prior to the occupation of the development there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and 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.
12. The development hereby permitted shall not be occupied until the boundary treatment as detailed under the approval of Condition 11 of this planning permission have been constructed/erected. The boundary treatments shall thereafter be retained for the lifetime of the development.
13. Notwithstanding the details of the approved plan (DL1927-2.01 Rev A), prior to the first occupation of the development hereby permitted, the following biodiversity enhancement features shall be incorporated into the development:
 - a) One integrated bat box on the southerly aspect of the building between five and seven metres high above ground level in a position at the gable apex or at the eaves;
 - b) One integrated bird box on the northerly aspect of the building between two and four metres high above ground level at the gable apex or eaves;
 - c) One integrated bee brick on the southerly aspect of the building positioned at a minimum height of 1 metre above the ground level with no vegetation obstructing the holes;

d) Hedgehog holes shall be incorporated into the boundaries and barriers of the proposed development to include any fencing, railing or gates.

These biodiversity enhancement features shall thereafter be retained for the lifetime of the development.

14. Prior to first occupation, the residential dwelling hereby approved shall be constructed and fitted out to comply with the Building Regulations 2010 (as amended) optional requirement M4(2) 'accessible and adaptable' as a minimum.
15. The dwelling hereby permitted shall be built and fitted out so as not to exceed the optional waste consumption standard of 110 litres per person per day, as set out in Approved Document G of the Building Regulations 2010 (as amended).
16. Prior to the first occupation of the development hereby permitted, the bin storage area shall be constructed and retained as indicated on approved plan DL1927- 2.01 Rev A.
17. Notwithstanding any detail shown on the drawings hereby approved, prior to the commencement of development above damp proof course, details of privacy screens for the rear balcony feature shall be submitted to and approved by the Local Planning Authority. Thereafter, the approved screens shall be installed before the first occupation of the approved development and retained for the lifetime of the development.

END OF SCHEDULE