



Appeal Decision

Site visit made on 13 September 2023

by H Wilkinson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 November 2023

Appeal Ref: APP/J0405/W/22/3312749

Laurel Cottage, Ivinghoe Aston, Ivinghoe, Buckinghamshire LU7 9DF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Philip Rayiru against the decision of Buckinghamshire Council.
 - The application Ref 22/02291/AOP, dated 24 June 2022, was refused by notice dated 14 September 2022.
 - The development proposed is the demolition of The Barn on land adjacent to Laurel Cottage and the construction of a replacement sustainable 3-bedroom dwelling, with new access.
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Decision

1. The appeal is allowed and outline planning permission is granted for the demolition of The Barn on land adjacent to Laurel Cottage and the construction of a replacement sustainable 3-bedroom dwelling, with new access at Laurel Cottage, Ivinghoe Aston, Ivinghoe, Buckinghamshire LU7 9DF in accordance with the terms of the application, Ref 22/02291/AOP, dated 24 June 2022, subject to the conditions set out in the schedule to this decision.

Preliminary Matter

2. The application is in outline with all matters reserved except for access, layout, and scale. Appearance and landscaping would be matters for future consideration. Whilst the external elevations are shown on the submitted plans, these details are for illustrative purposes only and are not for approval. The Council considered the appeal proposal on this basis, and I shall do the same.

Main Issues

3. The main issues are the effect of the proposed development on:
 - the character and appearance of the surrounding area;
 - biodiversity

Reasons

Character and appearance

4. The site subject to this appeal is located outside of the settlement boundary of Ivinghoe Aston and is occupied by a converted stable block¹. The site comprises a spacious plot, the topography of which is generally flat and lies at the end of a small row of residential properties. There is a further cluster of properties located on the opposite side of the highway. In this context, despite

¹ 21/04468/ACL

the proximity to the surrounding open fields, the appeal site is both visually and physically related to the existing built form and does not read as part of the open countryside.

5. Much of the appeal site is laid to grass. Vehicular access is currently provided via a gated entrance off the highway and there is an area of hardstanding for the parking of vehicles. Gravelled pathways and planted borders have been provided on the adjacent land together with several modest timber structures, which appeared to be in use for purposes incidental to the dwelling. Whilst I note that the adjacent land does not benefit from planning permission for residential use, the appeal site together with the land around it is nevertheless of a residential character and appearance.
6. Amongst other criteria, Policy H4 of the Vale of Aylesbury Local Plan 2013-2033 (Local Plan) indicates that a replacement dwelling should not be 'significantly greater' in size than the one that it replaces although this term is not explicitly defined. However, it is clear from the wording of the policy together with the reasoned justification that a comparable scale is sought to manage the overall effect of the proposal and ensure that the replacement dwelling does not cause significant harm to the site or its surroundings.
7. The existing dwelling has an approximate floor space of 44 square metres and comprises a single storey, U-shaped building. I observed at my site visit that the existing residential accommodation is extremely confined and appeared to me to be impractical for modern living, particularly when having regard to the national internal space standards. In these circumstances, whilst the proposed dwelling would not be comparable to the existing dwelling in terms of its overall height and floor space, I do not consider that the size of the replacement dwelling would be excessive.
8. Moreover, when read in the context of the site and its surroundings, the proposed dwelling would be of a relatively modest scale and its setback from the road together with the extent of the existing landscaping would mean that it would not be unduly prominent. Consequently, when viewed from the surrounding area including the highway and nearby properties, it would not be perceived as being significantly greater in size such that it would cause significant harm to the site or its surroundings.
9. The proposal would necessitate the removal of a small section of hedgerow. Nevertheless, the proposed access and associated hardstanding would not be overly prominent within the street scene owing to the set of the appeal site and the extent of landscaping indicated as being retained. Although the proposal would introduce domestic paraphernalia and would extend the residential boundary, it would not encroach beyond the existing site boundaries and, in any event would be read in association with the neighbouring built form. Consequently, it would not be perceived as a visually intrusive or incongruous form of development in this regard. Accordingly, I am not persuaded that the proposal would result in the undesirable urbanisation of the site such that the rural quality and character of the surrounding area would be harmfully eroded.
10. I have had regard to the appeal decision² put to me by the Council. Like the appeal proposal, the proposed replacement dwelling was significantly larger than the original dwelling. However, Lodge Hill was in a different landscape

² APP/J0405/W/23/3318656

setting whilst the mass and design of the proposal was notably different to the original dwelling. Consequently, the replacement would have been perceived as being significantly greater in size. This however is not the case in this instance. This decision therefore does not lead me to a different conclusion.

11. Accordingly, I find that the proposed development would not harm the character and appearance of the area. It would therefore accord with Local Plan Policies S3, H4, BE2 and NE4 where they seek to ensure that new development respects the character of the countryside and landscape, considering the physical characteristics of the site and its surroundings, scale, size, and prominence. It would also be consistent with the design objectives of the New House in Towns and Village Design Guide and the National Planning Policy Framework (the Framework) where they seek to ensure well designed spaces and protect the intrinsic character and beauty of the countryside.
12. The Council's decision notice alleges conflict with Local Plan Policy S1. However, this is a strategic policy relating to sustainable development and my attention has not been drawn to any wording which would relate to character and appearance. Thus, it is not determinative to this main issue.

Biodiversity

13. Amongst other aspects, Local Plan Policy NE1 sets out that a net gain to biodiversity on minor developments will be sought by protecting, managing, enhancing, and extending existing biodiversity resources, and creating new biodiversity resources.
14. A small section of hedgerow would be removed to facilitate the creation of the new vehicular access whilst the provision of the driveway and parking area would result in the loss of existing grassed land. The Council does not allege any harm to protected species, rather that, in the absence of appropriate mitigation, the proposal would result in a net loss to biodiversity. Based on the available evidence, there is a reasonable basis to suppose that biodiversity enhancement measures including compensatory planting could be secured by a condition.
15. I am satisfied that this approach would secure measurable gains to biodiversity thereby ensuring the protection and enhancement of biodiversity and geodiversity compliant with the aims of Local Plan Policy NE1. For this reason, it would also be consistent with the Framework where it seeks to conserve and enhance the natural environment.

Other Matters

16. The appeal site lies within the Zone of Influence for the Chilterns Beechwoods Special Area of Conservation (SAC) whose qualifying features include beech forests on neutral to rich soils, semi-natural dry grasslands and scrubland facies on calcareous substrates and dry grasslands and scrublands on chalk or lime. Chilterns Beechwoods SAC is separately notified by Natural England as a SSSI, under the provisions of the Wildlife and Countryside Act 1981, as amended.
17. New residential development within the Zone of Influence has the potential to adversely affect the integrity of the designated site through increased recreational pressure. As a replacement dwelling, the proposal would not result in a net increase of residential development and therefore would not lead to

increased recreational pressure. As such, I am satisfied that the proposal alone and in combination with other plans and projects would not have a likely significant effect on the SAC.

Conditions

18. I have had regard to the draft planning conditions that have been suggested by the Council and I have considered them against the tests in the Framework and the advice in the Planning Practice Guidance (PPG). I have made such amendments as necessary to comply with those documents and for clarity and consistency.
19. In addition to the standard time limit conditions, and in the interests of certainty, I have imposed a condition requiring that the development is carried out in accordance with the approved plans in so far as they relate to access, scale and layout. To safeguard existing habitats and secure biodiversity net gains a condition requiring a Construction Environment Management Plan and Habitat Management Plan is necessary. In the interests of the character and appearance of the area, I have imposed a condition securing details of the existing ground levels together with the finished floor levels of the proposed dwelling.
20. To promote efficiency and minimise energy usage a condition requiring an energy efficiency statement is necessary. A condition requiring an electric vehicle charging point is necessary to promote sustainable transport. In the interests of highway safety, a condition requiring the new access to be constructed in accordance with the submitted details prior to the first occupation of the dwelling is necessary. For the same reason, I have imposed a condition requiring the parking/turning area to be provided within the same timeframe. To ensure that the proposed dwelling is both accessible and adaptable, I have imposed a condition requiring compliance with Building Regulations 2010 (as amended) optional requirement M4(2).
21. A condition restricting the future enlargement, improvement or alteration of the dwelling including any outbuildings has been recommended by the Council. I acknowledge that the scope of permitted development rights could potentially allow further development within the site. However, I am also mindful that paragraph 54 of the Framework indicates that planning conditions should not be used to restrict national permitted development rights unless there is a clear justification to do so. Based on the evidence and my own observations on site, I am not persuaded that there is sufficient justification in this case. The condition would therefore fail the tests of reasonableness and necessity. The suggested condition relating to water efficiency is not necessary as it would duplicate Part G of the Building Regulations.
22. As the appearance of the dwelling is reserved for future consideration, it is not necessary to attach a condition requiring details of the external materials to be provided. For the same reason, it is not necessary to condition a scheme of landscaping at outline stage. A condition relating to visibility at the existing access onto Chapel Lane has been recommended by the Council. However, the evidence before me indicates that this access is subject to a separate planning permission³. It therefore is not necessary for me to impose the recommended condition.

³ 23/00104/APP

23. A condition requiring the development to be undertaken in accordance the Ecological Appraisal dated 2022 has been recommended. However, the Council has since confirmed that this was an administrative error and that the appraisal does not relate to the appeal scheme.

Conclusion

24. For the reasons outlined above and having regard to the development plan as a whole and all other relevant material considerations, including the provisions of the Framework, the appeal is allowed.

H Wilkinson

INSPECTOR

SCHEDULE OF CONDITIONS

1. Details of the appearance and landscaping (hereinafter called "the reserved matters" shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
2. Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
3. The development hereby permitted shall take place not later than 2 years from the date of the approval of the last of the reserved matters to be approved.
4. The development hereby permitted shall be carried out in accordance with the following approved plans in so far as they relate to access, layout and scale - ASD 2021/015 02A and ASD 2021/015 03.
5. No development shall commence on site (including demolition, groundworks, site, or vegetation clearance) until a Construction Environment Management Plan (CEMP) and Habitat Management Plan (HMP) detailing, in full, measures to protect existing habitat during construction works and the formation of new habitat to secure habitat compensation and biodiversity net gain have been submitted to and approved in writing by the local planning authority. The details shall also include an implementation and maintenance strategy. The development shall thereafter be undertaken in accordance with the details as approved.
6. No development shall commence on site (excluding demolition) until 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 be constructed in accordance with the approved details.
7. No development shall take place above slab level until an energy efficiency statement has been submitted to and approved in writing by the local planning authority. The energy efficiency 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, improve water efficiency and promote waste minimisation and recycling. Where necessary, the statement shall include an implementation and maintenance strategy. The development shall thereafter be undertaken in accordance with the details as approved.
8. No development shall take place above slab level until details of one electric vehicle charge point has been submitted to and approved in writing by the local planning authority. The electric vehicle charging point shall thereafter be installed in accordance with the approved details prior to the first

occupation of the dwelling and shall be permanently retained and made available for use, unless otherwise altered for maintenance or upgrading purposes.

9. Prior to the first occupation of the dwelling hereby permitted, the new access shall be constructed in accordance with the approved plan and shall accord with the Buckinghamshire County Council's guide note 'Private Vehicular Access Within Highway Limits' 2013. The access shall thereafter be permanently retained.
10. Prior to the first occupation of the dwelling hereby permitted, the parking and manoeuvring area shall be laid out in accordance with the approved plans. The parking and manoeuvring area shall thereafter be permanently retained as such and shall not be used for any other purpose.
11. The dwelling hereby permitted 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. Such provision shall be maintained for the lifetime of the development.

END OF SCHEDULE