



Appeal Decision

Site visit made on 24 October 2023

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 January 2024

Appeal Ref: APP/X0415/W/22/3312363

Old Beams, Three Households, Chalfont St Giles, Buckinghamshire HP8 4LJ

- 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 planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Millen Homes Limited against Buckinghamshire Council.
 - The application Ref PL/22/3061/VRC is dated 30 August 2022.
 - The application sought planning permission for "Demolition of the existing structures on the site and the erection of 14 new affordable dwellings" without complying with a condition attached to planning permission Ref PL/19/4345/OA, dated 11 March 2022.
 - The condition in dispute is No 20 which states that:
*This permission relates to the details shown on the approved plans as listed below:
Drawing No.(s): Ecology Report received on 5 July 2021, Affordable Housing Statement received on 17 September 2020, Proposed Amended Layout Notes (sk 161120 - 03 A, 08.12.2020, Material Architects) received on 9 December 2020, Flood Risk Assessment (THH-STL-01-RP-0001 Rev. P02, 13.02.2020, SKANSKA) received on 13 February 2020, Planning Enquiry Thames Water (DS6070124, 21.02.2020, Thames Water) received on 21 February 2020, Ecology Report received on 16 December 2019, Email from engineer at SKANSKA (18.02.2020) received on 18 December 2020, 161120 - 03 A - PROPOSED AMENDED LAYOUT received on 9 December 2020, AMENDED 161120 - 01 A - PROPOSED SITE/BLOCK PLAN received on 9 December 2020, Illustrative elevation sk 161120 - 02 received on 16 November 2020, Illustrative Typical Dwelling Plan1501 received on 17 September 2020, Design Access Statement received on 6 January 2020, Heritage Statement received on 16 December 2019, TREE PROTECTION PLAN TPP R1 received on 16 December 2019, Location Plan 0001A received on 2 August 2021, Existing Site Plan 0101 received on 16 December 2019, Noise Assessment received on 18 December 2020, and in accordance with any other conditions imposed by this planning permission.*
 - The reasons given for the condition is: *To ensure that the development is carried out in accordance with the details considered by the Local Planning Authority.*
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing structures on the site and the erection of 14 new affordable dwellings at Old Beams, Three Households, Chalfont St Giles, Buckinghamshire HP8 4LJ in accordance with the application Ref PL/22/3061/VRC, without compliance with condition 20 previously imposed on planning permission Ref PL/19/4345/OA dated 11 March 2022, and subject to the conditions in the attached schedule.

Preliminary Matters

2. A revised version of the National Planning Policy Framework (the Framework) was published in December 2023. The main parties were both invited to make representations on it, and I have taken these into account in considering this appeal.
3. A Unilateral Undertaking (UU) was submitted with the appeal. Following discussion between the main parties the appellant removed the UU from consideration and confirmed that it had not been executed. I have therefore dealt with the appeal on this basis.

Main Issue

4. The main issue is whether the disputed condition is reasonable and necessary in order to ensure the delivery of affordable housing.

Reasons

5. The appeal site consists of an area of open and overgrown land to the rear of properties that front on to Three Households. The proposal would be accessed via an existing access, that would be upgraded, from Three Households located between two residential properties, Ye Old Cottage, Old Beams and Larren.
6. Policy CS9 of the Core Strategy for Chiltern District (2011) (CS) requires that affordable housing in rural areas only be approved where there is an established need, the housing comprises 100% affordable housing, the housing is provided for people with a strong and demonstrable local connection, the housing remains affordable in perpetuity, and is small-scale, no greater than required to meet the current need.
7. The appeal does not seek to remove the affordable housing requirement but seeks to amend a condition relating to the tenure. The disputed condition, No. 20, lists a number of plans and documents for approval. The appeal specifically relates to one document that forms part of this list; the Affordable Housing Statement received on 17 September 2020. This statement detailed the type and tenure of the affordable housing to be provided as part of the proposed development. This statement made reference to starter homes as part of the affordable housing provision.
8. The Council have provided a draft delegated report that details a revised statement was submitted with the original permission that included 3 no 3-bed affordable rent dwellings, 7 no 2-bed affordable rent dwellings, 1 no 2-bed shared ownership dwelling and 3 no 3-bed shared ownership dwellings. The statement also confirmed that the dwellings would only be available for those able to demonstrate a connection with the Chalfont St Giles Parish. The Council's housing manager confirmed that the proposed size, type and tenure of the affordable dwellings was acceptable.
9. From the evidence before me, it would appear that starter homes did not form part of the Council's approval of the original application and reference to the Affordable Housing Statement detailed in condition 20 was an error.
10. Whilst the revised statement submitted with the appeal (entitled Affordable Housing Statement Revision 3) appears to be a different version that that seen by the Council. Its contents detail the same affordable housing size, type and

tenure and require the same connection to the Chalfont St Giles Parish. In addition, the legal agreement attached to the original permission would remain which ensures that the dwellings would remain affordable.

11. The variation of condition 20 would still ensure that the development would meet and be no greater than the Council's identified need, be 100% affordable housing, require a strong and demonstrable local connection, and remain affordable in perpetuity.
12. In this circumstance, I consider it necessary to vary condition 20 to refer to the correct Affordable Housing Statement. The variation of condition 20 would not harm the provision of affordable housing and would therefore comply with CS Policy CS9 which seeks to ensure that affordable housing meets an identified local need.

Other Matters

13. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, (the Act) requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest. Ye Old Beams and Cottage (both Grade II listed buildings), neighbour the site. The variation of condition 20 to alter an Affordable Housing Statement would not alter the built development that has been approved. Based on the evidence before me, I am satisfied that the variation of condition would have a neutral effect on, and therefore preserve, the setting of the listed buildings.

Conditions

14. Planning Practice Guidance (PPG) states that decision notices for the grant of planning permission under section 73 should set out all of the conditions imposed on the new permission and restate those imposed on earlier permissions that continue to have effect. In this regard, I have also reviewed the conditions imposed on the original permission and consider that they all remain necessary and relevant.

Conclusion

15. I therefore conclude that the appeal should be allowed and grant a new planning permission varying the disputed condition but retaining those non-disputed conditions from the previous permission that appear still to be relevant.

Tamsin Law

INSPECTOR

Schedule of Conditions

- 1) The development to which this permission relates must be begun before the expiration of two years from the approval of the last of the remaining reserved matters to be approved.
- 2) The approval of the Local Planning Authority shall be obtained to the scale and appearance of the development and the landscaping of the site before any part of the development hereby permitted (except access) is commenced.
- 3) Application for approval of all reserved matters must be made to the Local Planning Authority not later than the expiration of three years from the date of this permission.
- 4) No works other than demolition shall begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, 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. The scheme shall also include:
 - Assessment of SuDS components as listed in the CIRIA SuDS Manual (C753) and provide justification for exclusion if necessary
 - Demonstrate that water quality, ecological and amenity benefits have been considered
 - Water quality assessment demonstrating that the total pollution mitigation index equals or exceeds the pollution hazard index; priority should be given to above ground SuDS components
 - Discharge rates limited to 2 l/s
 - Ground investigations including:
 - Infiltration in accordance with BRE365
 - Full construction details of all SuDS and drainage components
 - Detailed drainage layout with pipe numbers, gradients and pipe sizes complete, together with storage volumes of all SuDS components
 - Calculations to demonstrate that the proposed drainage system can contain up to the 1 in 30 storm event without flooding. Any onsite flooding between the 1 in 30 and the 1 in 100 plus climate change storm event should be safely contained on site.
 - Details of proposed overland flood flow routes in the event of system exceedance or failure, with demonstration that such flows can be appropriately managed on site without increasing flood risk to occupants, or to adjacent or downstream sites.
 - Flow depth
 - Flow volume
 - Flow velocity
 - Flow direction
- 5) Prior to the occupation of the development a whole-life maintenance plan for the site must be submitted to and approved in writing by the Local Planning Authority. The plan shall set out how and when to maintain the full drainage system (e.g. a maintenance schedule for each drainage/SuDS component),

with details of who is to be responsible for carrying out the maintenance. The plan shall also include as as-built drawings and/or photographic evidence of the drainage scheme carried out by a suitably qualified person. The plan shall subsequently be implemented in accordance with the approved details.

- 6) Prior to the commencement of development approved by this planning permission (, the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:
- i) A preliminary risk assessment which has identified:
 - a. all previous uses o potential contaminants associated with those uses
 - b. a conceptual model of the site indicating sources, pathways and receptors
 - c. potentially unacceptable risks arising from contamination at the site.
 - ii) A site investigation scheme, based on (i) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site. This should include an assessment of the potential risks to: human health, property (existing or proposed) including buildings, crops, pests, woodland and service lines and pipes, adjoining land, ground waters and surface waters, ecological systems, archaeological sites and ancient monuments.
 - iii) The site investigation results and the detailed risk assessment (ii) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken. iv) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (iii) are complete and identifying any requirements for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved.
- 7) Following completion of measures identified in the approved remediation scheme and prior to the first use or occupation of the development, a verification report that demonstrates the effectiveness of the remediation carried out must be produced together with any necessary monitoring and maintenance programme and copies of any waste transfer notes relating to exported and imported soils shall be submitted to the Local Planning Authority for approval. The approved monitoring and maintenance programme shall be implemented.
- 8) Reporting of Unexpected Contamination: In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 1, which is subject to the approval in writing of the Local Planning Authority. Following completion of

measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 1.

- 9) Any first floor windows facing north and/or north-west and/or north-east in the north-eastern most unit of Block A shown on drawing no. sk 161120 - 03 A shall be fitted and permanently maintained with obscure glass and only the top third of the window(s) shall be openable unless prior written consent is given by the local planning authority to a variation.
- 10) The details to be submitted for the approval of the Local Planning Authority in accordance with condition 2 above shall include a scheme for the parking of 2 cars for each of the approved residential units and the parking spaces shall be laid out and shall be identified with regard to the relevant residential units and shall be laid out and dimensioned in accordance with the Buckinghamshire County Council's "Car Parking Standards". The approved scheme shall be implemented and made available for use before the development hereby permitted is occupied and that area shall not thereafter be used for any other purpose.
- 11) The details to be submitted for the approval of the Local Planning Authority in accordance with condition 2 above shall include a scheme for the secure parking/storage of 2 cycles for each of the residential units hereby approved and shall be identified as such, in accordance with the Buckinghamshire County Council's "Vehicle Parking Standards". The approved scheme shall be implemented and made available for use before the development hereby permitted is occupied and that provision shall not thereafter be used for any other purpose.
- 12) Notwithstanding the provisions of Article 3 and Classes A, B, C, D, E and F of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order, 2015 (or any Order revoking and/or re-enacting that Order with or without modification), no enlargement, improvement or other alteration (including the erection of a garage, stable, loosebox or coach-house within the curtilage) of or to any dwellinghouse the subject of this permission, shall be carried out nor shall any building or enclosure or hard surfacing required for a purpose incidental to the enjoyment of any said dwellinghouse as such be constructed or placed on any part of the land covered by this permission.
- 13) No development shall take place until a schedule of materials to be used in the elevations of the development hereby permitted have been submitted to and approved by the Local Planning Authority in writing. Thereafter the development shall be carried out in accordance with the approved details and the proposed facing materials shall include natural timber boarding and a mixture of local brick and roughcast render and the use of natural clay tiles, with either flat dormers or sledged dormers faced in rolled metal.
- 14) The details to be submitted for the approval of the Local Planning Authority in accordance with condition 2 above shall comprise 1 ½ storey buildings with half-hipped roofs and an eaves height not exceeding 3.6 metres, and with the provision of chimneys / flues & cowls.

- 15) The details to be submitted for the approval of the Local Planning Authority in accordance with condition 2 above shall include details of external lighting for the private residential gardens and the communal areas.
- 16) No development shall take place until all buildings, on the application site edged in red and on that land falling within the ownership of the applicant and edged in blue on the Location Plan 0001 Revision A received by the Council on 2 August 2021, at the time of the commencement of the development hereby permitted have been demolished in their entirety and removed from the site. All materials resulting from the removal/demolition of the buildings shall be removed from the site by the substantial completion or occupation of the development hereby permitted, whichever is the sooner.
- 17) The details to be submitted for the approval of the Local Planning Authority in accordance with condition 2 above shall include details of all walls and/or fencing and shall include details of landscaping and/or a 1.8m high wall constructed in local brick as agreed in writing by the local planning authority and erected along the application site boundary that runs parallel to the south-west boundary of Old Beams and all walls and/or fencing shall be erected prior to the initial occupation of the development hereby approved and shall thereafter be retained and maintained.
- 18) The landscaping scheme to be submitted under condition 2 and approved in writing as a reserved matter by the local planning authority shall include information in relation to a Biodiversity Impact Assessment (BIA) to demonstrate that the proposed development will result in a net gain for biodiversity (habitat units). The BIA shall be presented with a clear plan for the site demonstrating how the proposed landscaping contributes to an overall net gain.
- 19) The proposed development shall be undertaken in accordance with the recommendations of the submitted Ecological Reports dated 5 July, 2021 and 6 December, 2019 by Cherryfield Ecology and any mitigations, such as bat and bird boxes, shall be installed in accordance with the recommendations and within one month of the initial occupation or substantial completion of the approved development.
- 20) This permission relates to the details shown on the approved plans as listed below: Drawing No.(s): Ecology Report received on 5 July 2021, Affordable Housing Statement Revision 3, Proposed Amended Layout Notes (sk 161120 - 03 A, 08.12.2020, Material Architects) received on 9 December 2020, Flood Risk Assessment (THH-STL-01-RP-0001 Rev. P02, 13.02.2020, SKANSKA) received on 13 February 2020, Planning Enquiry Thames Water (DS6070124, 21.02.2020, Thames Water) received on 21 February 2020, Ecology Report received on 16 December 2019, Email from engineer at SKANSKA (18.02.2020) received on 18 December 2020, 161120 - 03 A - PROPOSED AMENDED LAYOUT received on 9 December 2020, AMENDED 161120 - 01 A - PROPOSED SITE/BLOCK PLAN received on 9 December 2020, Illustrative elevation sk 161120 - 02 received on 16 November 2020, Illustrative Typical Dwelling Plan1501 received on 17 September 2020, Design & Access Statement received on 6 January 2020, Heritage Statement

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