



Appeal Decision

Site visit made on 11 March 2024

by A. J. Boughton MA (IPSD) Dip.Arch. Dip.(Conservation) RIBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 May 2024

Appeal Ref: APP/J0405/W/23/3324368

Land at High Street South, Stewkley Leighton Buzzard LU7 0HR

- 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 Aldermans Estates Ltd against the decision of Buckinghamshire Council.
 - The application Ref: 22/04098/APP dated 5 December 2022 was refused by notice dated 14 April 2023
 - The development sought to be approved is Erection of two dwellings with associated parking and landscape.
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Decision

1. The appeal is dismissed insofar as it relates to Plot 2 and planning permission is refused. The appeal is allowed insofar as it relates to Plot 1 and planning permission is granted for Erection of one dwelling with associated parking and landscape at Land at High Street South Stewkley Leighton Buzzard LU7 0HR in accordance with the terms of the application, Ref 22/04098/APP dated 5 December 2022, and the plans submitted with it so far as is relevant to the development hereby permitted and subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 22-16-002-P1; 22-16-100-P1; 22-16-103-P1; 22-16-104-P1; 22-16-400-P0; 22-16-401-P0.
 - 3) Prior to the commencement of any works above ground level, details of hard and soft landscaping, including all boundary treatments, shall be submitted to and approved in writing by the local planning authority. The development shall be completed in accordance with the approved details.
 - 4) As is relevant to the development hereby approved, works shall be implemented in accordance with the Arboricultural Report (AIA) and Tree Protection Plan submitted ref: 'appendix 3B'. Arboricultural supervision of ground protection measures and other works detailed in the report shall be undertaken in accordance with details which have previously been submitted to, and approved in writing by, the Local Planning Authority.
 - 5) Prior to the commencement of development, and in accordance with the Habitat Designation Assessment (Technical Briefing Note) dated March 2023 and related correspondence, an Ecological Mitigation and Enhancement Strategy (EMES) including an updated Biodiversity Net Gain (BNG) assessment, shall be submitted to, and approved in writing by, the Local

Planning Authority. The EMES shall be implemented in full prior to the first occupation of the development hereby permitted.

- 6) Prior to the construction of any wall or building above ground level, materials to be used externally in the construction of the development hereby approved shall be submitted to, and approved in writing by, the Local Planning Authority.

Preliminary Matter

2. For clarity, the two dwellings proposed will be identified as 'plot 1' (eastern) and 'plot 2' (western) being their respective positions within the appeal site.

Main Issues

3. The main issues are:
 - whether the proposal would be suitably located having regard to relevant development plan policies, and
 - the design and layout of the proposal, and
 - the effect of the proposal upon biodiversity and habitat for protected species.

Reasons

Principle of development

4. The appeal site lies within the modest settlement of Stewkley which is arranged in a largely linear fashion along both sides of the B4032, a local highway which is titled High Street appended with 'north' or 'south' according to the position in the village. The development proposed is for two detached dwellings sitting in tandem formation behind established frontage development. An unusual feature of the proposal is that each dwelling would be provided with independent access from High Street South, making use of two established points of access over a wide verge each between existing dwellings along the street frontage. This unusual configuration allows one plot to be developed wholly independently of the other such that one would be severable from the remainder of the development as proposed.
5. The appeal site (other than the access drives) is rectangular in form running east-west such that the proposed Plot 1 largely falls within (and Plot 2 outwith) the settlement boundary for Stewkley which arises from Policy STK1 in the Stewkley Neighbourhood Plan (SNP) which was 'made' in December 2021. This policy supports (subject to criteria) small 'windfall' housing proposals within the defined settlement boundary which 'defines a clear line between the open countryside and the village's built form'. The exceptions provided by that policy do not apply to the proposal and only Plot 1 falls within that boundary.
6. The appellant suggests that the existing use of garden land 'surrounded by development and previously developed land' means it relates poorly to open countryside such that its development would be within the spirit of the SNP. The degree of enclosure from surrounding development in Old Manor Court (to south) and Folding Close (to north) is an important consideration and although adjacent, the setting of the two Plots differs significantly. Whereas Plot 1 sits wholly within the built form of the village, Plot 2, due to its width and bulk, would project prominently into what, when viewed from Folding Close, is now

perceived as land beyond the village perimeter, consequently a clear conflict with this part of the development plan arises from the positioning of Plot 2.

Design and Layout

7. The Council's second refusal reason relates to the housing type proposed and the size of the proposed units (housing mix) which are both designed as four-bedroomed and of two storeys. Policy STK2 of the SNP is specific in seeking to limit the proportion of larger dwellings even in a proposal for two dwellings such that a small degree of conflict exists with Policy STK2 of the SNP due to the proposed provision of two, rather than a single, four-bedroom house.
8. Secondly, having regard to the Council's third refusal reason, the appeal site falls to the west and sits below the level of the established two-storey dwellings along the High Street frontage and is substantially contained by the continuous built form of Old Manor Court on the south side (of plot 1) and also existing dwellings to the north that also sit behind frontage housing. The proposed dwellings are substantial detached houses of differing designs but generally adopting conventional architectural forms in terms of expansive, steeply pitched tiled roofs, chimney stacks and brick detailing and, as such, this would be consistent with the surrounding, largely vernacular, built form. I therefore conclude there would be no conflict with the requirements of Policy BE2 of the Vale of Aylesbury Local Plan 2021 (VALP) which seeks that development proposals should respect and complement the characteristics of a site and retain local distinctiveness.

Biodiversity and habitat

9. The Council refusal reason (RFR4) refers to deficiency in information as to proposals to deliver Biodiversity Net Gain (BNG) and in ecology surveys. The appellant has subsequently undertaken further survey work and provided additional information including a phase 2 Habitat Survey¹. The information provided would appear to address all reasonable requirements for the purpose of demonstrating the proposal would deliver the required BNG, demonstrating no significant adverse impacts in regard to the Conservation of Habitats and Species regulations 2017 subject to suitable conditions to require the implementation of the recommendations. I therefore find no conflict with either Policy NE1 of VALP or with the Policy STK12 of the SNP which seek an absence of such harm and a biodiversity net gain.

Other Matters

10. The appeal site lies partly within the Stewkley Conservation Area (SCA) and partly within its setting. There are other designated heritage assets, however, my observations indicate that the positioning of the proposed dwellings would preserve the character and appearance of the SCA and, due to intervening built form, not lie within the setting of any listed building. Although the access to Plot 2 lies adjacent to a Non-Designated Heritage Asset (NDHA), No.36 High Street, the use and character of that access would not be affected by the proposal; whilst there would be increased use of the access this would be a minor incremental change of no consequence to the significance of the NDHA.

¹ June 2023

Planning Balance and Conclusion.

11. I have found no conflict with the development plan in the matters raised in the third and fourth refusal reasons. There is an acknowledged conflict in relation to the 'housing mix' component of the proposal. Notwithstanding the relatively limited planning harm that arises, I have concluded that Plot 2 would not be suitably located, and this would be in direct conflict with a key policy of the SNP which seeks to protect the openness of the countryside with a defined edge to the built area of the village. The benefits of the proposal are tangible at a time when the Council are deficient in housing land but limited. Overall, there are no material considerations to strongly indicate the development should be determined other than in accordance with the development plan. However, as my reasoning explains, the harms arising from the proposal differ significantly between Plot 1 and Plot 2 and it would be possible to conclude that Plot 1, severed from Plot 2, would not conflict with the development plan taken as a whole whereas, as submitted, the proposal for both dwellings (Plots 1 & 2) presents significant conflict with Policy STK1 and moderate conflict with Policy STK2 of the SNP.
12. Since the submission of the appeal, the Council have set out their housing land supply position and concede a 4.5 year supply which engages the provisions of Paragraph 11(d) of the Framework, the 'Tilted Balance'. There are no (Footnote 7) designations that set this aside, however, as the SNP was 'made' less than five years ago, Paragraph 14 of the Framework is a material consideration with regard to the weight to be attached to conflict with Policies of the SNP, in that the adverse impact of allowing development which conflicts with a neighbourhood plan is 'likely to significantly and demonstrably outweigh the benefits'.
13. Plot 2 presents a significant conflict with Policy STK1 and that conflict is not outweighed by any other material consideration, consequently the appeal cannot succeed in relation to that part of the proposed development. On the basis that Plot 1 is severed from the second housing unit I conclude that the development would accord with the development plan as a whole and that, taking all matters raised into account, the appeal can, in part, succeed. In addition to the usual timing and plans conditions, conditions to secure biodiversity, Arboricultural and ecological measures, together with details of landscaping and boundary treatments together and construction materials proposed to be used externally are necessary to ensure the development proceeds in accordance with my reasoning. Such details as are submitted may reflect any adjustments that necessarily arise from the reduction of the scope of the proposal.

Andrew Boughton

INSPECTOR