



Appeal Decision

Site visit made on 13 May 2024

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st May 2024

Appeal Ref: APP/J0405/W/23/3327067

18 Hilton Avenue, AYLESBURY HP20 2EX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Luqman Khan against the decision of Buckinghamshire Council - North Area (Aylesbury).
 - The application Ref is 23/01558/APP.
 - The development proposed is the demolition of existing garage and store, construction of part two storey, part single storey side / rear extension and associated alterations in connection with creation of attached 1 x 3 bed house and the change of use of amenity land to residential land.
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Decision

1. The appeal is allowed, and planning permission is granted for the demolition of existing garage and store, construction of part two storey, part single storey side / rear extension and associated alterations in connection with creation of attached 1 x 3 bed house and the change of use of amenity land to residential land at 18 Hilton Avenue, Aylesbury, HP20 2EX in accordance with the terms of the application, Ref 23/01558/APP, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. The Council's 'New Homes in Towns and Villages Design Guide' [1992] is referenced in RfR1. This was superseded last year by the Vale of Aylesbury Local Plan Design SPD [2023]. Accordingly, I have taken into account the more recent design guide.

Main Issues

3. The main issues are:
 - The effect of the proposed development on the character and appearance of the area, and
 - The effect of the proposal on highway safety regarding the proposed parking provision.

Reasons

Character and appearance

4. Hilton Avenue is a residential street within a relatively modern housing estate with housing that includes a variety of house types. Opposite the site, housing consists of blocks of flats which stand within spacious green spaces creating a

strong open character. The appeal site is within a residential block that predominantly comprises semi-detached and terraced properties, with a less pronounced open character. Housing here is generally set back from the footway providing some landscaped frontages. Nonetheless, some parts, such as the side elevations of 58 and 60 Fairfield Crescent, create a hard urban edge. As a result, the area is a mix of open landscaped areas and parts that are interconnected with a hard urban form.

5. The side gardens of the corner plots at the junction of Fairfax Crescent include open grass verges in the public realm. The site is a corner plot. The side garden of the host property is partly occupied by a garage and an area of hardstanding to its rear. This area is enclosed by fencing and a line of semi-mature trees and makes a neutral contribution to the character and appearance of the area.
6. The proposed dwelling would connect to the host property forming a terrace of three houses. The proposal would respect the front building line of the adjacent dwelling, have a similar footprint and would not extent beyond the front elevation of 33 Fairfax Avenue to its rear. Furthermore, the roof pitch and elevational treatment would relate well to existing adjacent development. As a result, the proposed dwelling would be of a scale, design and form that would complement the surrounding established pattern of development.
7. The site is partly occupied by built form and trees. This visually encloses the site to an extent and limits the contribution it makes to the open character of the area. Furthermore, the footprint of the proposed dwelling would generally align with the existing fence line that separates the public realm from the existing side garden. As such, the area of grass verge beyond the fence would be retained, maintaining the green space and more open character evident around the junction.
8. Therefore, whilst the proposed dwelling would be close to the footway at its front corner, this would not be materially different to the position of the existing fence and would not dominate views around the junction. This would also reflect the proximity of some development built at the back of footways in the area. Therefore, whilst the scheme would remove the side garden, it would only remove a small sense of openness conveyed by the current garden. Consequently, the proposed scheme would not appear cramped or out of place in this context. Moreover, the recess from the footway to the side of the proposal, would increase along Fairfax Road and retain most of the sense of openness around the site.
9. Consequently, the proposal would complement the character and appearance of the area. As such, the scheme would comply with policies BE2 and D3 of the Aylesbury Local Plan [2021] (LP), the Vale of Aylesbury Local Plan Design SPD [2023] and the National Planning Policy Framework (the Framework). These seek, among other matters, for development to complement the physical characteristics of a site and for development to be in keeping with the scale and spacing of nearby dwellings and the character of its surroundings.

Highway safety

10. The proposed dwelling includes parking provision for two vehicles. These would be located to the side of the plot, making use of the former driveway serving the host dwelling but would be slightly widened. Replacement parking for

No 18 would be provided within the frontage of the site. The Council's parking standards are evident at Table 1 of Appendix B of its Local Plan. This seeks 2 spaces per dwelling, plus a provision of a visitor space for every two dwellings. Given the sites sustainable location, within an urban area with good access to public transport, the provision of parking would be acceptable.

11. The details of the access of the replacement parking onto the highway have not been submitted in evidence. However, it seems that its required dropped kerb may be partly within the bellmouth of the Fairfax Avenue junction, resulting in some potential highway conflict.
12. However, the surrounding residential streets appear to carry a low volume of traffic, where on street manoeuvring would be unlikely to cause substantive conflict. There is a telegraph pole in the footway that would be adjacent to the proposed driveway. This may need to be moved slightly to accommodate the proposed parking. Whether relocated or not the pole would be within the field of vision of motorists. However, this would only obstruct a small part of a motorist's envelope of visibility and would not, as such, cause detriment to visibility. Therefore, motorists using the driveway would have acceptable visibility levels, enabling the safe use of the drive, without causing detriment to highway or pedestrian safety.
13. The Council indicate that more information is required to ensure that the proposed driveway would not encroach onto the bellmouth of the junction. Nevertheless, insufficient evidence has been submitted to demonstrate how the proposed access would result in substantive harm to highway safety. As a result, it is unconvincing that the scheme would require mitigation for harmful highway impacts.
14. Accordingly, the proposal would comply with LP policies T5 and T6. These require development to, *inter alia*, mitigate any unacceptable highway impacts and provide the required parking provision.

Other Matters

15. An interested party has raised concerns that the proposal would include insufficient parking and that local on-street parking is limited. During my visit I observed that on-street parking was unrestricted and that many properties had on plot parking. I also noted that there was limited use of the available and ample on-street parking. My observations offer only a snap-shot in time, and my visit took place during the working week. However, whilst there would be greater pressure for on street parking at peak times, I anticipate that such parking would remain available, if required for visitors.

Conditions

16. I have considered the use of conditions in line with the guidance set out in the Government's Planning Practice Guidance (PPG). I shall take the Council's suggested conditions into consideration and impose most of these with some amendments and adjustments for clarity. I have imposed the standard conditions with respect to timeframe and approved plans as advised by the PPG for clarity and certainty [conditions 1 and 2].
17. It is necessary for the approved dwelling to use the stated materials in the submission, and for details of the site's means of enclosure to be agreed by the local planning authority, to ensure that the scheme would complement the

character and appearance of the area [3 and 9]. Also, a biodiversity enhancement scheme is required to ensure that the scheme delivers new planting in accordance with LP policies BE2 and NE1 [10]. As the rear of the site is hardstanding, and the proposal would occupy the existing side garden, there is no reason for this to be agreed before development commences.

18. Two conditions have been imposed with regard to dropped kerb and relocated telegraph poles. Despite the Council's drafting, there is no clear reason why these must be agreed prior to development commencing. If the trigger is set prior to commencement, this would mean that if agreement is not achieved development could not take place. The PPG is clear that Grampian style conditions, which prevent development taking place until a certain action has been taken, should have a realistic prospect of being performed within the time limit imposed by the permission. Accordingly, I have adjusted the trigger point from prior to development commencing to prior to first occupation [4 and 5]
19. A condition is required to ensure that the car parking areas are provided prior to the use commencing to enable the scheme to function well [6]. It is necessary to require hours of construction to be limited to protect the living conditions of neighbouring occupiers [11].
20. The Framework advises that conditions should not be used to restrict permitted development (PD) rights unless there is clear justification to do so. Nonetheless, due to the relatively small size of the proposed and retained gardens and proximity to neighbours, rights for extensions, dormers and outbuildings should be removed. Also, a condition is necessary to remove PD rights for means of enclosure to maintain the open plan frontage that is characteristic of the estate. Conditions are therefore reasonable to remove such rights in the interests of the living conditions of future and existing occupiers and the character and appearance of the area [7 and 8].
21. The Council considers a condition would be necessary with respect to electric charging points. However, I have not sought such details as this would be secured by Building Regulation and it would be unnecessary to duplicate other legislative requirements.

Conclusion

22. The proposal would accord with the development plan, when taken as a whole, and there are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. As such, the appeal is allowed, and planning permission granted subject to the attached conditions.

Ben Plenty

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: drawing no's 22-1061-PL01 - Existing & Proposed floor/roof plans, elevations, location & site plans and 22-1061-PL02 Existing & Proposed Block and Site Location Plans
- 3) The external surfaces of the development hereby permitted shall be constructed in the materials shown as specified in the submitted application form and the approved drawing no. 22-1061-PL01.
- 4) Prior to the first occupation of the approved dwelling, the proposed dropped kerbs (for both existing and proposed dwellings) including location and the relevant visibility splays shall be submitted to and approved in writing by the Local Planning Authority. These approved details shall then be implemented in accordance with the approved scheme.
- 5) Prior to the first occupation of the approved dwelling, details of the driveway to serve 18 Hilton Avenue, the location of its dropped kerbs and the adjacent telegraph pole shall be submitted and approved in writing by the Local Planning Authority. These approved details shall then be implemented in accordance with the approved scheme.
- 6) The scheme for parking and manoeuvring indicated on the approved drawings shall be laid out prior to the initial occupation of the development hereby permitted and that area shall not thereafter be used for any other purpose.
- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no enlargement of dwelling, dormer windows, nor the erection of any garage buildings, structures or outbuildings, covered by Classes A, B and E of Part 1 of Schedule 2 to that Order shall be erected within the curtilage of no.18 and no. 18A other than those expressly authorised by this permission.
- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking or re-enacting that Order, with or without modification), no gate, fence, wall or other means of enclosure covered by Class A of Part 2 of Schedule 2 to that Order shall be erected within the curtilage of no.18 and no. 18A other than those expressly authorised by this permission.
- 9) Prior to occupation of the dwelling hereby approved, full 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.
- 10) Prior to the occupation of the dwelling hereby approved, a scheme for the enhancement of biodiversity on the site shall be submitted to and

approved in writing by the local planning authority. The scheme shall include details of the proposed management of the site, biodiversity enhancement features and shall include a timetable for implementation. The development shall be carried out in accordance with the approved details.

- 11) No construction works (including machinery operation) relating to the development hereby permitted shall take place outside the hours of 0800 - 1800 Monday to Friday and 0800 - 1300 on Saturday. No construction work shall take place on Sundays, Bank Holidays and Public Holidays.

End of conditions