



Appeal Decision

Site visit made on 14 January 2025

by **David Murray** BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 February 2025

Appeal Ref: APP/J0405/W/24/3345525

Three Corners Piece, Granborough Road, North Marston, BUCKS, MK18 3PP

- 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 S & Mrs G Loft against the decision of Buckinghamshire Council - North Area (Aylesbury).
 - The application Ref is 23/03165/APP.
 - The development proposed is the demolition of all existing buildings and erection of a replacement 3x bedroom dwelling and outbuilding providing residential car port and agricultural store.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of all existing buildings and erection of a replacement 3x bedroom dwelling and outbuilding providing residential car port and agricultural store, at Three Corners Piece, Granborough Road, BUCKS, MK18 3PP in accordance with the terms of the application, Ref 23/03165/APP, and the plans submitted with it, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs has been made by the appellants against the Council. This is the subject of a separate decision.

Preliminary Matters

3. I note that the Council has concerns that part of the proposal lies outside of the red line of the defined application site and/or that this site area does not align exactly with the recognised domestic curtilage. It appears that part of the (relocated) approved outbuilding is designed to be for agricultural use with doors that face a field and be accessible to that field. In these circumstances I find that the variation from the recognised domestic curtilage is not material and the description of the proposal does not need to be amended.
4. The appellants have submitted an Arboricultural Appraisal and Tree Protection Plan with the appeal which the Council considers addresses the second reason for refusal subject to the imposition of a condition. Therefore, I do not need to address this issue further other than in respect of the condition.

Main Issues

5. The main issues are:

- Whether the replacement dwelling meets the development plan policy on such new housing and the effect on the character and appearance of the area; and
- Whether a measurable net gain in bio-diversity has been demonstrated.

Reasons

Background

6. The appeal site lies in a remote position in open countryside and comprises a number of single storey buildings and structures around a concrete and gravel hardstanding. These are grouped around a building with the appearance of a stable but partly it is in residential use.
7. It is apparent from the planning history of the site that a Certificate of Lawfulness was granted on appeal in January 2023¹. In this the inspector concluded on the evidence that there were two planning units at the site. In summary, an agricultural use on a defined part of the site, and a primary residential use in part of the stable building was lawful because the period in which enforcement action could be taken had expired. Following this decision the Council had issued two other Certificates of Lawfulness including one for the proposed erection of an outbuilding and one for the extension to the dwelling.
8. I considered a separate application for Prior Approval for the construction of an additional storey to create first floor living accommodation at the dwelling at the same site visit as that carried out for the present appeal. That appeal (APP/J0405/D/24/3346072) was dismissed.
9. In the current appeal it is proposed to demolish all the existing buildings and erect a replacement dwelling and outbuilding.

Policy context

10. The development plan includes the Vale of Aylesbury District Local Plan (VALP) and the North Marston Neighbourhood Plan made in 2023 (NMNP). It is clear that the site lies in the countryside away from any settlement and here, strategic policies S1, S2 and S3, in summary, indicate that new development should be avoided unless on allocated sites or where it accords with other policies to support thriving local communities.
11. The relevant policy for the appeal case is H4 which generally supports replacement dwellings on a 'one for one' basis provided that the new dwelling is not significantly greater in size than the one being replaced; does not cause significant harm to the site and accords with the design principles set out in Policy BE2.
12. It is established that there is a lawful dwelling on this site, so the main difference between the parties is over whether the replacement would be significantly greater in size and whether there would be significant harm to the site or surroundings.

¹ APP/J0405/X/21/3287617

Whether significantly greater

13. Although there is no guidance on what constitutes a significant increase in the policy itself, the reasoned justification to policy H4 in paragraph 5.25 of the VALP indicates that for the purpose of comparison, the term dwelling will not include any detached garaging or domestic outbuildings.
14. From the evidence put forward it appears that the Council considers that the existing dwelling has a floor area of about 48 sqm when compared to the floorarea of the proposed dwelling of about 210 sqm. The existing figure appears to be based on the extent of the dwellinghouse identified by the inspector in the 2023 appeal as that shown cross-hatched in the plan accompanying the LDC certificate. The Council says that the current proposal would result in a 125% increase based on floorspace and a 105% increase based on volume where the existing amounts to 353 m³ compared to the volume of the replacement dwelling at 668 m³.
15. The appellants have undertaken a similar calculation. Some of the figures refer to the total difference including the residential outbuilding but that appears to be a different issue to the comparative size of the actual replacement dwelling and I have not had regard to this element. In any event the size of the outbuilding already permitted by the Council on the menage appears to be similar in nature to the one repositioned in this appeal scheme.
16. The appellant calculates the existing dwelling as 94 m² in floor area and 293 m³ in volume. In these it is suggested that the space of the attached domestic buildings should also be taken account of given the approach set out in the reasoned justification for the policy as mentioned above. Moreover, the appellants' fallback position includes the area/volume of additions to the dwelling as agreed under the Certificates of Lawfulness. For comparison purposes these would increase the size of the footprint of the existing dwelling to 141 sqm and a volume of 484m³.
17. In the circumstances of the case it is reasonable to take account of the buildings attached to the dwelling and to the agreed additions which may be lawfully carried out. I have no reason to doubt that these extensions would be carried out by the appellants if necessary, given the planning history of this site. Therefore moderate weight can be given to this aspect as the fallback additions are more than a theoretical possibility.
18. On the basis of the appellants' calculations it appears that the proposed replacement dwelling would be less than the existing dwelling in terms of 'footprint' terms, and slightly greater in floorspace but would be about a 50% increase in volume which probably arises from the proposed first floor element.
19. Taking the range of size comparisons as a whole, I am satisfied that the proposed dwelling would not be significantly greater than the one it replaces in respect of the first test set out in Policy H4.

Effect on character and appearance

20. As well as the issue of comparable size the policy also relates to whether the proposal would cause significant harm to the locality. At the moment the site contains a jumble of single storey buildings, structures and containers which have an equestrian appearance and their part use for domestic purposes is incongruous. There is some vegetation along the roadside frontage which helps

screen the buildings and structures but there are still views of them and these will be more prominent in winter months.

21. The proposed house will be more visible, partly because of its almost two storey form and additional height, and it will be readily seen in views along Granborough Road from the north. Nevertheless, the design of the building with a tile roof and elevations of timber cladding will be a more traditional architectural form for a rural building. In relation to the criteria put forward in Policy BE2, I am satisfied that the scale and basic architectural form of the building are appropriate for the area but I have concerns about the use of 'Marley Modern' dark brown roof tiles, as opposed to small plain tiles, together with the unspecified materials of the barge boards shown on each gable. These will be prominent and could dominate the appearance of the building and would be out of character with the general vernacular form of other buildings locally along Granborough Road. However, this issue can be resolved by a variation to the condition on external materials as recommended by the Council. With such revisions the proposed house would contribute to local character and distinctiveness and not be at odds with it. On this basis the proposal meets the requirements of policy BE2.
22. In terms of the replacement outbuilding, the design and scale of this are similar to the structure already permitted on the menage. This area appears to be recognised as part of the existing domestic curtilage whereas the proposed site involves a minor extension beyond that into a field. Nevertheless the scale of this enlargement of the site is not substantial and relates to the different uses proposed for the building and where the agricultural/equestrian uses open up onto the field. I do not see it as material to the overall scheme. The proposal has the simple form of a rural outbuilding and is appropriate for the site.
23. Overall on this issue I find that the proposal reasonably meets the provisions of Policy H4 for a replacement dwelling and would have an appropriate design, siting and form to meet Policy BE2 subject to my comments about revisions to the materials.

Whether a measurable nett gain in bio-diversity

24. The original planning application was accompanied by a Preliminary Ecological Appraisal (PEA) undertaken by James Johnstone Ecology. The report concludes that the proposed scheme causes no biodiversity/habitat loss and so minor biodiversity gain will be achieved through the proposed replacement of hardstanding with hedge and garden habitats in the south plus new bird and bat boxes erected onto the buildings. Although the views of the Council's Ecologist are not mentioned in the delegated report, the appellants reproduce part of his response in their statement. The Ecologist advises that the PEA is an accurate account of the ecological features at present and goes on to say that while there is not a full Biodiversity Nett Assessment the proposed enhancements are considered to be sufficient to demonstrate Biodiversity Nett Gain.
25. When it came to the overall assessment of the planning application the case officer concluded that a full assessment was required in accordance with VALP Policy NE1 and NMNP Policy NE2 and, as there has not been a 10% Nett Gain properly established through a measurable method, a formal reason for refusal on this basis was justified.

26. The provisions of securing a Biodiversity Nett Gain of at least 10% for minor development were set in place prior to the submission of this planning application. In addition NMNP Policy NE2 has a similar requirement for 10% measurable nett gain. Therefore, technically the proposal is in breach of the Policy as there is not a measurable method put forward.
27. However, I note that Policy NE3 refers to the enhancement of natural features being 'where practical'. In the circumstances of the site where there is extensive ground cover of concrete and gravel hard surfacing within the site, a 10% nett increase in Biodiversity would not be difficult to achieve. Taking account of the expert advice of the two ecologists, in the circumstances of this particular case it would not be reasonable to refuse planning permission on this ground alone if all other aspects of the development proved to be acceptable. On this basis I am satisfied that the issue of biodiversity nett gain can be addressed by a condition.

Planning balance

28. On the main issues I find that the proposed replacement dwelling would not be significantly greater than the existing dwelling taking into account buildings attached to the dwelling and further extensions that may lawfully be carried out. Moreover, while the replacement building would be larger in scale and height, it would have a better appearance than the array of existing buildings which are proposed to be demolished and removed. This would enhance the character and appearance of the area subject to some minor revisions to the roof materials and details which can be conditioned.
29. On the expert advice available on Biodiversity, on the specific circumstances of this case and the nature of the site I am satisfied that the requirements for the development to provide a 10% nett gain can reasonably be left to be resolved by an appropriate condition.
30. Overall I find that the proposal reasonably meets the requirements of VALP policies H4 and BE2 and NWNP Policy NE2. This accord is not outweighed by any other considerations and this indicates that the appeal should be allowed.

Conditions

31. In terms of conditions the Council recommends 18 which I will consider under the same numbering. In addition to the statutory condition on the commencement of development (No.1) in the interests of clarity it is necessary to list the approved plans and the development should be undertaken in accordance with them (No.2).
32. To ensure that the replacement dwelling has a satisfactory appearance the external materials shall be as shown on the plans other than in respect of the roof materials and barge boards. In the light of my concerns as set out in paragraph 21 above I will amend condition No.3 recommended so that alternative materials and details of these aspects must be submitted to the Council and approved before construction work exceeds slab level. Condition No.15 on existing and proposed slab levels is also necessary to ensure the development fits in with the surrounding landscape. To protect existing trees from damage during construction the implementation of the submitted tree protection measures, condition 14, is necessary.

33. In the interests of highway safety and in order to promote sustainable travel, conditions No's 4, 5 and 6 are reasonable and necessary. Further, to promote sustainable development and the sound use of resources I will impose conditions No's 8 and 10. Condition No.11 is necessary to ensure that the new house has good accessibility for people with special needs. Condition no.7 is necessary to ensure the development is properly drained to prevent pollution and flooding. In case there are items of archaeological interest in the site which need investigation and recording, condition No.9 is reasonable and necessary. In order to promote biodiversity and ensure that the development secures at least a 10% nett gain condition13 is appropriate.
34. Given that the proposal is put forward as a replacement dwelling the size of which takes account of existing domestic structures and lawful additions, there is special justification in this case for the removal of 'permitted development rights' to build further extensions and outbuildings as they may lead to the new dwelling being significantly greater than the existing and have a greater and possibly adverse effect on the local rural landscape. Condition 12 is therefore necessary. Likewise Conditions No's 16 and 17 are reasonable and necessary to limit the uses of this outbuilding to those put forward. Finally, it is fundamental to the proposal for a replacement dwelling and relocated outbuilding that the existing dwelling and additions are demolished and removed from the site soon after the replacement dwelling is first occupied. I will therefore impose condition No 18.

Conclusion

35. For the reasons given above I conclude that the appeal should be allowed.

David Murray

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 only be carried out in accordance with drawing no's
 - PL-01, Site Location Plan
 - PL-03, Proposed Site Layout (Block) Plan
 - PL-04, Proposed Dwelling Plans
 - PL-05, Proposed Dwelling Elevations
 - PL-07, Outbuilding Plans
- 3) Other than in respect of the roof materials and barge boards, the external materials to be used to construct the dwelling and outbuilding hereby approved shall be as indicated on approved plans PL-05 and PL-07, received by the Local Planning Authority on 11 October 2023 and shall thereafter be retained as such. Amended details of the proposed roof materials and the treatment of the barge boards shall be submitted to the Council for approval prior to the development progressing above slab level and the dwelling shall not be occupied until these approved detailed have been implemented.
- 4) The scheme for parking, garaging and manoeuvring indicated on approved plan PL-03 shall be laid out prior to the initial occupation of the replacement dwelling hereby permitted and that area shall thereafter be retained and shall not be used for any other purpose.
- 5) Prior to the occupation of the replacement dwelling hereby permitted, details of the provision of an electric charging point shall be submitted to and approved in writing by the Local Planning Authority. The electric charging point shall be implemented in accordance with the approved details prior to first occupation of the replacement dwelling hereby permitted and shall thereafter be retained as approved.
- 6) Prior to the occupation of the replacement dwelling hereby permitted, details of secure covered cycle parking shall be submitted to and approved in writing by the Local Planning Authority, and the cycle parking shall be implemented in accordance with the approved details prior to first occupation of the replacement dwelling and shall thereafter be retained as approved.
- 7) Prior to the commencement of the replacement dwelling, hereby approved, details of foul and surface water drainage shall be submitted to and approved in writing by the Local Planning Authority. The means of foul and surface water drainage shall thereafter be implemented in accordance with the approved details prior to development above slab level of the replacement dwelling and shall thereafter be retained as approved.
- 8) The replacement dwelling hereby permitted shall be built and fitted out so as not to exceed the optional water consumption standard of 110 litres per person per day, as set out in Approved Document G of the Building Regulations 2010 (as amended).

- 9) No development shall take place, except demolition, until the applicant, or their agents or successors in title, have secured the implementation of a programme of archaeological work (which may take place over a number of phases) in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the planning authority. The development shall only be implemented in accordance with the approved scheme.
- 10) Prior to any development above slab level of the replacement dwelling 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, improve water efficiency 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 measures;
 - supplying energy efficiently and giving priority to decentralised energy supply;
 - making use of renewable energy; and
 - making use of allowable solutions.

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

- 11) The replacement 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 prior to first occupation. Such provision shall be maintained for the lifetime of the development.
- 12) Notwithstanding the provisions of Article 3(1) of the Town & Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order) no development falling within Classes A – B and D – F of Part 1 of Schedule 2 and Class A of Part 2 of Schedule 2 to the said Order shall be erected, constructed, or placed within the application site unless planning permission is first granted by the Local Planning Authority.
- 13) No development, including demolition, shall take place until an Ecological Appraisal is submitted to and approved in writing by the Local Planning Authority. The appraisal must demonstrate through a measurable methodology that the development will achieve at least a 10% biodiversity net gain post development. The development shall thereafter be implemented in accordance with the approved scheme prior to the first occupation of the replacement dwelling hereby permitted and shall be retained in perpetuity.
- 14) Prior to the commencement of the development, hereby approved, the tree protection measures as detailed within the Arboricultural Appraisal by Advanced Arboriculture, dated 24 May 2024 and the appraisal's Tree

Protection Plan Ref. TH/C031/0424 Rev. 1.0, dated 10 May 2024 shall be implemented and retained during the construction of the development.

- 15) No development hereby permitted shall take place with the exception of demolition or site clearance until details of the proposed slab levels of the replacement dwelling in relation to the existing and proposed levels of the site and the surrounding land have been submitted to and approved in writing by the Local Planning Authority, with reference to a fixed datum point. The proposed development shall thereafter be constructed in accordance with the approved slab levels.
- 16) The carport, hereby permitted, shall not be used or occupied for any purposes other than as ancillary to the residential use of the property on the site, currently known as Three Corners Piece, Granborough Road, North Marston, Buckinghamshire MK18 3PP.
- 17) The agricultural store, hereby permitted, shall be used for agricultural purposes only and shall not be used for any business or commercial use.
- 18) Within one month of the first occupation of the replacement dwelling, hereby approved, the existing dwelling shall be demolished in full and removed from the site.

End