



Appeal Decision

Site visit made on 29 January 2025

by Hannah Guest BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th March 2025

Appeal Ref: APP/J0405/W/24/3356545

Land off Oxford Road, Dinton, Buckinghamshire, HP17 8UU

- 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 Dinton Homes Ltd against the decision of Buckinghamshire Council.
 - The application Ref is 24/02205/APP.
 - The development proposed is two detached dwellings with access, parking/garaging, amenity space and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for two detached dwellings with access, parking/garaging, amenity space and landscaping at land off Oxford Road, Dinton, HP17 8UU in accordance with the terms of the application, Ref 24/02205/APP, subject to the conditions in the attached schedule.

Preliminary Matters

2. As part of the appeal the views of the main parties were sought on whether the Biodiversity Metric Calculation submitted with the application met the Biodiversity Metric Rules set out in Table 2 of the Statutory Biodiversity Metric User Guide¹. This was not an invitation to amend the proposal. In response the appellant provided an updated Biodiversity Net Gain Report and Metric Calculation, which included the provision of additional on-site habitat units achieved through the addition of traditional orchards and slight loss of vegetated garden.
3. It is important that what is considered by the Inspector at appeal is essentially the same scheme that was considered by the LPA and by interested parties at the application stage.
4. In this case, the amendments would not fundamentally change the proposal. However, accepting amendments, such as these, could deprive parties of the opportunity to comment. I am aware that interested parties to the application have raised concerns regarding the impact of the proposal on biodiversity. Thus, taking the amended documents into account could prejudice their interests.
5. The appeal process should not be used to evolve a scheme. Any amendments should be made as part of a fresh planning application. I shall therefore determine the appeal on the basis of the plans and documents which were before the Council when it made its decision.

¹ https://assets.publishing.service.gov.uk/media/669e45fba3c2a28abb50d426/The_Statutory_Biodiversity_Metric_-_User_Guide_23.07.24_.pdf

Main Issues

6. The main issues in this appeal are:
- whether the appeal site would be an appropriate location for the proposal with regard to the Council's spatial strategy for the area; and
 - the effect of the proposal on the character and appearance of the area.

Reasons

Suitability of location

7. The appeal site is located within Gibraltar, a hamlet with no facilities and services, other than the Bottle and Glass Public House (PH).
8. Policy S2 of the Vale of Aylesbury Local Plan 2013-2033 (2021) (Local Plan) sets out where strategic growth and investment will be permitted in the district. The policy strictly limits any housing development in rural areas outside of the strategic settlements and the larger, medium and smaller villages. In these areas, it considers it likely for housing development to be incremental infill development principally in line with Policy D5 and other relevant policies in the Local Plan.
9. Policy D5 of the Local Plan permits new homes in 'other settlements' in specific circumstances. Gibraltar is not identified as an 'other settlement' in the Council's settlement hierarchy set out at Table 2 of the Local Plan. Policy D5 would therefore not be applicable to new homes outside of 'other settlements', such as the appeal proposal. The corollary of the lack of support from Policies S2 or D5 of the Local Plan is that the proposal would be at odds with the spatial strategy.
10. In conclusion, the appeal site would not be a suitable location for the appeal proposal when applying the spatial strategy set out in the development plan. This would harm the public interest of having a genuinely plan-led system that provides consistency and direction.

Character and appearance

11. The appeal site is located on the other side of the A418, the principal road between Thame and Aylesbury, to most of the other houses in Gibraltar and the Bottle and Glass PH.
12. There are frequent vehicle movements along the A418, which means the highway somewhat dominates the immediate area. The houses are set back from the A418, more so on the opposite side of the highway to the appeal site, particularly the PH, which is set behind a moderate sized open car park. This creates a sense of spaciousness. Soft boundary treatments along the A418, roadside hedges and verges add verdancy to the street scene. While there are glimpse views of the open countryside beyond the housing, many of these views include an element of built form.
13. I saw on my visit, that despite the presence of the A418 and regular vehicle movements, there is no clear distinction between the houses on either side of the highway. On the ground, Gibraltar appears as a cluster of houses with a countryside setting. It does not have a linear structure. The three houses on the side of the A418, where the appeal site is located, do not appear to have a more rural character than those on the opposite side of the A418, and their broadly

linear arrangement is not a noticeable characteristic. The pattern of development feels more organic and is centred on the houses being arranged to move away from the A418 rather than along it. Given this, despite there not being any other examples of backland development in the immediate area, the arrangement of the proposed dwellings would be in keeping with the existing pattern of development and would accord with the Vale of Aylesbury Local Plan Design Supplementary Planning Document (2023) in this regard.

14. Furthermore, the houses along New Road, a nearby side road providing access to Westlington, are noticeable from the A418. Although associated with another settlement, these houses reinforce the existing pattern of development in the area, as they are arranged to move away from the A418 rather than along it.
15. The appeal site is well contained by a recently built dwelling that fronts the A418 and close board boundary fencing, which on most sides is further supplemented by mature trees and other planting beyond the fenced boundary. I am of the view that these trees and planting are likely to remain for reasons of aesthetics and privacy. Given this, there would be very limited views of the proposed dwellings, if any, from the wider area.
16. The proposed dwellings would be visible from the A418. Nonetheless, they would be set back a significant distance from the highway. I saw on my visit that the land on the appeal site falls gently away from the A418. Given this, even in unobstructed views from the site entrance, and even if the proposed dwellings were slightly taller than the recently constructed dwelling fronting the A418, they would not be dominant or obtrusive. The views of Gibraltar from the A418, include built form positioned behind other built form. The proposed dwellings would therefore not appear incongruous or contrived in this regard. Moreover, the proposed dwellings would have generous plots with sufficient space around them and their detached garages to not appear cramped. Given this, and the existing trees and other planting around the perimeter of the site, the proposal would maintain the spacious and verdant character of this part of the A418.
17. I appreciate that the proposal would result in the development of undeveloped land, which contributes to the mosaic of smaller and moderate sized field parcels that prevail around the edge of Gibraltar and Dinton. However, the parcel of land is well contained and its loss to development would not urbanise the area to a degree that it would result in harm to its rural character and appearance or the character of the wider countryside.
18. Accordingly, for the reasons above, the proposal would not harm the character and appearance of the area. It would therefore accord with Policy BE2 of the Local Plan, which seeks to ensure that all new development proposals shall respect and complement, among other things, the physical characteristics of the site and its surroundings, including the scale and context of the site and its setting, as well as the local distinctiveness and vernacular character of the locality, and the natural qualities and features of an area.

Other Matters

19. On the opposite side of the A418 to the appeal site is the Bottle and Glass PH, which is a Grade II listed building. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to give special regard to

preserving the building or its setting or any features of special architectural or historic interest which it possesses.

20. The A418 and the houses making up Gibraltar that surround the listed building form part of its setting. The car park in front of the public house, together with the soft boundary treatments along the A418, roadside hedges and verges, create a spacious and verdant character. It is this spacious and verdant setting that is significant in relation to this appeal.
21. The appeal site and the listed building are separated by the A418, as well as a newly constructed dwelling located between the appeal site and A418 and behind reasonably dense and tall roadside hedging. There would be a significant distance between the proposed dwellings and the listed building, and they would not be seen within the same vista. Any intervisibility between them would be restricted to the proposed dwelling on Plot 1 and would be limited. In addition, I have found that the proposal would maintain the spacious and verdant character of this part of the A418. For these reasons, I conclude there would be no harm to the setting of the listed building or its significance as a designated heritage asset.
22. The proposal is subject to Biodiversity Net Gain (BNG). That being the general Biodiversity Gain Condition, as set out in Paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990 (as amended) would apply.
23. The Planning Practice Guidance² confirms that BNG will often be a material consideration, and it should be considered, where relevant, whether the biodiversity gain condition is capable of being discharged successfully.
24. To support this, as part of the application a Biodiversity Net Gain Report and Metric Calculation were submitted. These documents demonstrate that the proposal would increase on-site habitat by 0.03 habitat units (5%), as well as introduce 0.31 units of hedgerow habitat. However, the hedgerow habitat can not be counted towards the required 10% increase in BNG, as Rule 2 of the Biodiversity Metric Rules states that biodiversity unit outputs, for each type of unit, must not be summed, traded, or converted between types. The requirement to deliver at least a 10% net gain applies to each type of unit. Given this, another 0.03 habitat units are needed to meet BNG.
25. It was confirmed during the appeal process that the remaining 0.03 habitat units would be provided off-site through a third party. Details of the off-site gains would be set out on the Biodiversity Gain Plan secured through the biodiversity gain condition.
26. Based on the information before me and subject to a condition requiring a Habitat Management Monitoring Plan to be submitted to and approved in writing by the Local Planning Authority, I am satisfied that the biodiversity gain condition is capable of being successfully discharged.
27. Interested parties have also raised concerns regarding highway safety and the effect of the proposal on the Dinton, Westlington, Upton and Gibraltar Conservation Area. The proposal was accompanied by a Transport Statement that concluded the proposed access onto the A418 would have appropriate levels of visibility and that the highway network could safely accommodate the additional

² Biodiversity net gain Paragraph: 002 Reference ID: 74-002-20240214

traffic generated. I also note that, subject to amended plans showing the access road widened to 4.8 metres, the Highways Officer was satisfied with the access arrangements. From the evidence before me and my observations on site, I can find no reason to disagree. Given the significant distance between the proposed dwellings and the conservation area, which are separated by the A418, as well as intervening landscape and built form, the proposal would not harm the setting or the significance of the conservation area.

Conditions

28. The Council has suggested that 16 conditions be imposed on any grant of permission, which I conclude on below. In imposing conditions, I have had regard to the approach in the National Planning Policy Framework (Framework) and the Planning Practice Guidance. I have accordingly modified the wording or form of certain conditions without altering their fundamental aims. The numbers given in brackets (x) refer to the conditions being imposed, with the order being prescribed by the time when the condition needs to be complied with.
29. In addition to the statutory time limit condition (1), a condition specifying the plans that are approved, and that the development shall be undertaken in accordance with them (2) is required in the interests of certainty.
30. To ensure an appropriate and sustainable stock of housing, it is necessary to impose a condition to ensure that the proposed dwelling is constructed to meet the standards for a Category 2 M4(2) dwelling (3). This is an optional requirement so will only apply where a condition that the dwelling should meet the requirement is imposed as part of the process of granting planning permission.
31. To safeguard protected species, it is necessary to impose a condition to ensure the development is carried out in accordance with the Preliminary Ecological Appraisal and Roost Assessment (4).
32. To protect retained trees during the development works, a condition is necessary to ensure the development is carried out in accordance with the Tree Protection Plan (5). This condition must be pre-commencement to ensure that the trees are protected for the whole of the development process. This condition has been agreed by the appellant.
33. To be certain that the development does not increase flood risk on or off the site, a condition is required to ensure that the development includes an adequate surface water management scheme (6). This condition must be pre-commencement as the drainage scheme could affect the fundamental design of the proposal. This condition has been agreed by the appellant.
34. To enhance biodiversity, it is necessary to impose a condition requiring preparation of and accordance with a Habitat Management Monitoring Plan (7). This condition must be pre-commencement so that biodiversity can be appropriately managed during the whole of the development process. This condition has been agreed by the appellant.
35. In the interests of highway safety, a condition is necessary to ensure the site access is upgraded in accordance with the approved drawings (8). This condition must be pre-commencement to ensure suitable access is provided for the whole of the construction process, as well as when the dwellings are occupied. This

condition has been agreed by the appellant. For the same reason it is necessary to also impose a condition requiring the provision of the vehicular parking spaces and areas for manoeuvring vehicles (12) as well as adequate visibility splays (13) prior to occupation of the proposed dwellings.

36. To protect the character and appearance of the area, it is necessary to impose conditions requiring a soft and hard landscaping scheme (9) and the details of all means of enclosure (10) to be approved by the Local Planning Authority.
37. In the interests of mitigating and adapting to climate change, it is necessary to impose a condition to ensure that suitable electric vehicle charging points are installed prior to occupation (11). For the same reason, a condition is needed to ensure that the development meets the Building Regulations optional water efficiency requirement (14). Again, this is an optional requirement so will only apply where a condition that the dwelling should meet the requirement is imposed as part of the process of granting planning permission.

Planning Balance and Conclusion

38. There is no dispute between the parties that the Council cannot demonstrate a five-year supply of deliverable housing sites. The current supply of sites is somewhere between 2.77 and 4.24 years.
39. Given the shortfall in housing supply, paragraph 11d) of the Framework falls to be considered. Permission should therefore be granted unless any adverse impacts of the proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
40. I have found that the proposal would be at odds with the Council's spatial strategy. The spatial strategy is broadly consistent with the Framework in terms of locating housing in rural areas, where it would enhance or maintain the vitality of rural communities, allow villages to grow and thrive, especially where this would support local services, and avoid isolated homes in the countryside. Nevertheless, even at 4.24 years, there is a notable shortfall in deliverable housing sites, and the Council has not demonstrated that this is a temporary dip in supply or that they have a strategy to address the shortfall. Small-sized sites, such as the appeal site, are often built-out relatively quickly. The two proposed dwellings would therefore help address the shortfall more promptly. For these reasons, in this case, I afford the conflict with the spatial strategy limited weight.
41. Moreover, the parties agree that the appeal site is not isolated in the context of Paragraph 84 of the Framework and, although it lies outside of any settlement identified in the Council's settlement hierarchy, it would be, in principle, a sustainable location for limited small-scale development, such as the appeal proposal. I also note that an Inspector when determining an appeal close by, concluded Gibraltar to be a reasonably accessible and sustainable location, with bus stops a couple of minutes' walk from the site providing frequent services to Aylesbury, Thame and Oxford. Gibraltar is also within walking distance of Westlington with a continuous footway between the two settlements. On balance, I am of the view that Gibraltar is not an unsustainable location for two additional dwellings, which would help maintain the vitality of the rural communities of

Gibraltar, Westlington and Dinton as a collective. Thus, the proposal would not conflict with the overall aim of the spatial strategy to ensure development is located in sustainable locations. This would help moderate any harm to the public interest and plan-led system arising from the proposal being at variance with the associated policies.

42. The proposed dwellings would not comprise the infilling of a small gap in a developed frontage, as required by Policy D5 of the Local Plan, for other limited small-scale development outside of the strategic settlements, and smaller, medium and larger villages. Nonetheless, the proposal would be in keeping with the wider pattern of development, including the scale and spacing of nearby homes and would not have an adverse effect on the character of the countryside.
43. In terms of benefits, the proposal would deliver two dwellings in an accessible location and would support the objective of the Framework in boosting the supply of homes in an area where there is a significant shortfall in the current supply of deliverable housing sites. Although the scale of the proposal is modest, the two dwellings, in this case, could be built-out relatively quickly and would make a meaningful and moderate contribution to the area's housing supply.
44. The proposal would have modest social and economic benefits resulting from the construction of the dwellings and spending associated with their occupation. There would also be some modest environmental benefits arising from the additional biodiversity net gain associated with the increase in hedgerow habitat.
45. Overall, I find that the limited harm arising from the proposal being at odds with the Council's spatial strategy would not significantly and demonstrably outweigh the benefits of the proposal. Thus, in this case, material considerations justify allowing the appeal.
46. For the reasons above, having had regard to the development plan as a whole and all relevant material considerations, I conclude that the appeal should be allowed, subject to the conditions set out in the attached schedule.

Hannah Guest

INSPECTOR

SCHEDULE OF 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 details set out in the planning application form and the following approved plans: 2402-001; 2402-002C; 2402-003A; 2402-004; Tree Protection Plan.
- 3) The development hereby permitted shall be constructed and fitted out to meet the standards for a Category 2 M4(2) dwelling, as set out in Approved Document M to the Building Regulations (2010) 2015. Thereafter all such provisions shall be retained and maintained.
- 4) The development hereby permitted shall be implemented in accordance with the recommendations and enhancements set out in the Preliminary Ecological Appraisal and Roost Assessment 2024 prepared by 4 Acre Ecology Limited, dated 13 May 2024.
- 5) No development shall take place until the tree protection measures shown on the approved Tree Protection Plan have been installed. Thereafter, all phases of the development shall be carried out in accordance with the approved Tree Protection Plan.
- 6) No development shall take place until a scheme for surface water management has been submitted to and approved in writing by the Local Planning Authority. Prior to first occupation of the development hereby permitted the scheme for surface water management shall be implemented in accordance with the approved details and thereafter maintained for the lifetime of the development.
- 7) No development shall take place including demolition, ground works, and vegetation clearance until a Habitat Management Monitoring Plan (HMMP) has been submitted to and approved in writing by the Local Planning Authority. The content of the HMMP shall include the following:
 - description and evaluation of features to be managed.
 - ecological trends and constraints on site that might influence management.
 - aims and objectives of management which will (without limitation) include the provision of biodiversity net gain within the Site as shown within the Biodiversity Gain Plan (4Acre Ecology BNG report July 2024 references 0.03-unit habitat gains & 0.31-unit hedge gains post development).
 - appropriate management options for achieving aims and objectives.
 - prescriptions for management actions.
 - preparation of a work schedule (including an annual work plan capable of being rolled forward over a thirty-year period).
 - details of the body or organisation responsible for implementation of the plan.
 - ongoing monitoring and remedial measures.
 - details of species-specific enhancements proposed within the development including locations and models.

The HMMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall be for no less than 30 years. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the HMMP are not being met) how contingencies and/or remedial action will be identified, agreed, and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The development hereby permitted shall be implemented in accordance with the approved HMMP.

- 8) No other part of the development shall take place until the site access has been upgraded in accordance with approved drawing 2402-002C.
- 9) No development above slab level shall take place until a scheme of soft and hard landscaping has been submitted to and approved in writing by the Local Planning Authority. The details shall include:
 - written specifications of planting and cultivation works;
 - a schedule of plants including species, plant sizes and proposed numbers/densities;
 - written specifications of planting and cultivation works; and
 - an implementation programme and schedule of landscape maintenance for a minimum period of five years.

The scheme of soft and hard landscaping shall be carried out in accordance with the approved details and agreed implementation programme. Thereafter the completed scheme shall be maintained in accordance with the approved details.

If, within a period of 5 years from the date of planting, any tree or plant (or any tree or plant planted in replacement of them) is removed, uprooted, destroyed or dies or becomes seriously damaged or defective, another tree or plant of a similar size and species as that originally planted shall be planted at the same place within the first planting season following the removal, uprooting, destruction or death of the original tree or plant.

- 10) Prior to first occupation of the development hereby permitted, all means of enclosure shall have been constructed in accordance with details previously submitted to and approved in writing by the Local Planning Authority. Thereafter the means of enclosure shall be maintained.
- 11) Prior to first occupation of the development hereby permitted, electric vehicle charging points shall have been installed in accordance with details previously submitted to and approved in writing by the Local Planning Authority. Thereafter the electric vehicle charging points shall be maintained, available at all times for the charging of electric vehicles.
- 12) Prior to first occupation of the development hereby permitted, the vehicle parking spaces and areas for manoeuvring vehicles shown on approved plan 2402-002C shall have been constructed. Thereafter the vehicle parking spaces and areas for manoeuvring vehicles shall be maintained, available at all times for their intended purpose.

- 13) Prior to first occupation of the development hereby permitted, minimum vehicular visibility splays of 195 metres from 2.4 metres back from the edge of the carriageway from both sides of the new site access onto the A418 shall be provided. Thereafter the visibility splays shall be kept free of obstruction between 0.6 metres and 2.0 metres above ground level.
- 14) Prior to first occupation of the development hereby permitted, measures shall be incorporated within the development to ensure the dwelling achieves a water efficiency standard of 110 litres (or less) per person per day, including a fixed factor of water for outdoor use of 5 litres per person per day. Thereafter these measures shall be maintained.