
Appeal Decision

Site visit made on 25 February 2025

by V Simpson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st March 2025

Appeal Ref: APP/P0240/W/24/3351902

8 Farriers Way, Houghton Regis, Central Bedfordshire, LU5 5FG

- 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 Shane Reilly against the decision of Central Bedfordshire Council.
 - The application Ref is CB/22/03176/FULL.
 - The development proposed is new dwelling – formation of parking space within curtilage of original No 8 Farriers Way.
-

Decision

1. The appeal is allowed and planning permission is granted for new dwelling – formation of parking space within curtilage of original No 8 Farriers Way, Houghton Regis, Central Bedfordshire LU5 5FG in accordance with the terms of the application, Ref CB/22/03176/FULL, subject to the conditions in the attached schedule.

Preliminary Matters

2. The site is located within the zone of influence of the Chiltern Beechwood Special Area of Conservation (SAC) which is a habitat site afforded protection under the Conservation of Habitats and Species Regulations 2017 - as amended (the habitat regulations). Although not forming part of the Council's reason for refusal, it is incumbent upon me as the competent authority to consider whether the proposal would have a likely significant effect on the integrity of the habitat site. It is necessary to consider this matter as a main issue.
3. A signed Unilateral Undertaking (UU) was provided in support of the application and is before me now. It includes obligations relating to the payment of a financial contribution towards a strategic access management monitoring (SAMM) strategy and a suitable alternative natural greenspace (SANG) strategy.

Main Issues

4. The main issues are the effect of the development on;
 - the character and appearance of the area;
 - the living conditions of the occupiers of numbers 19, 21 and 23 Millers Way, with particular regard to outlook; and
 - the Chiltern Beechwoods SAC habitat site

Reasons

Character and appearance

5. The appeal site is within a largely built-up and mainly residential area. Albeit the houses within this area are provided within a mix of detached, semi-detached, and short terraced buildings, they relate well to each other and the streets they address. They also use a similar palette of external materials. From within the public realm close to the appeal site, several areas that are either laid to grass or which contain trees or shrubs, are visible. These provide relief to the built form and contribute to the distinctiveness of the area.
6. The appeal site contains a semi-detached dwelling (number 8) at the end of a row of 3 other similarly sized houses at numbers 2, 4, and 6 Farriers Way (numbers 2, 4, and 6). It has a much larger garden than the other houses in this row, and its plot width is over double that of the nearby properties at numbers 4 and 6. Moreover, the gap between the proposed house and the house at number 8 would be very similar to that between the houses at numbers 4 and 6, and a slightly wider gap would be retained between the other side of the proposed house and the northeastern site boundary. As such, the proposed house would not appear cramped, either within its plot or when compared with nearby houses.
7. Even if a tree belt between Farriers and Millars Way has been disrupted, and the development would result in the loss of a small number of trees within the site and close to the front of the proposed dwelling, this would not lead to a harmful reduction to the verdancy or appearance of the area. This is because the open grass area to the front of the appeal site and other nearby pockets of shrubs and trees would be retained.
8. Unlike the semi-detached houses in the row, the proposed dwelling would be detached. However, there are other detached houses in the area, and the siting of the proposed dwelling would align well with the nearby semi-detached properties. Furthermore, and even though it would have a slightly wider frontage than the other houses in the row, its window pattern, window sizes, and front porch, would be alike others found within these nearby dwellings.
9. The part of the roof of the proposed house closest to number 8, would have a similar form and height to this neighbouring house. Although the other side of the roof would be hipped, given the variety of roof forms in the area, and its location at the end of a row, this detail would not look strange. Instead, the proposed dwelling would read as a harmonious and sympathetic addition, which would not be incongruous with nearby development. Consequently, it would comply with an aim set out within the Council's Central Bedfordshire Design Guide – dated August 2023 (the SPD) to encourage well-designed developments. It would also comply with that part of this SPD which guides that new buildings should reflect existing building forms, scale, rhythm, materials, and patterns of development.
10. For these reasons, the development would not cause harm to the character and appearance of the area. In this respect, it would comply with policy HQ1 of the Central Bedfordshire – Central Bedfordshire Local Plan 2015-2035 – dated July 2021 (the Local Plan). Amongst other things, this policy seeks to ensure that development enhances or reinforces local distinctiveness and that it relates well to its surroundings.

Living conditions

11. The residential properties at numbers 19, 21, and 23 Millers Way (numbers 19, 21, and 23) which are adjacent to the northeastern boundary of the appeal site, all

have good sized rear gardens. Through the rear-facing house windows and from the rear gardens of these properties, only the upper parts of the fairly modest proposed house would be visible above the tall close-boarded intervening fencing. Moreover, and despite the proposal to construct the dwelling on higher land than the houses at numbers 19, 21, and 23, the proposed dwelling would be set back in from its shared boundary with these properties by a fairly wide pathway. Its gabled roof would also slope up and away from them. As such, and because of the decent depths of the rear gardens of numbers 19, 21, and 23, the development would not be overbearing or result in an oppressive sense of enclosure from these properties.

12. For these reasons, the development would not cause harm to the living conditions of the occupiers of numbers 19, 21, and 23 Millers Way, with particular regard to outlook. Consequently, and in respect of this main issue, it would comply with policy HQ1 of the Local Plan, which, amongst other things, seeks to ensure that development would not lead to an unacceptable adverse impact upon nearby existing uses.

Habitat site

13. The site is within the 500m-12.6km zone of influence (ZOI) of the Ashridge Commons and Woods site of special scientific interest, which forms part of the SAC. The SAC supports a range of habitats which include; beech forests; semi-natural dry grassland and scrubland on calcareous substrates; and stag beetles, which qualify under the habitat regulations. The conservation objectives of the SAC are to ensure that; its integrity is maintained or restored as appropriate; and, that it contributes to achieving the favourable conservation status of its qualifying features.
14. The evidence indicates that new housing within the zone of influence of the SAC can be expected to result in an increase in recreational pressure within it. This is through; damage; contamination; fire; and in other ways which may include harvesting and activities associated with site management. As such, there is a pathway of potential adverse effects from the construction and subsequent use of an additional dwelling in the location proposed, on the integrity of the habitat sites. Therefore, without suitable mitigation, and both alone and in combination with other developments, a likely significant effect on the internationally important features of the SAC cannot be ruled out.
15. In these circumstances, and where the development would otherwise be acceptable, the Habitats Regulations require that the competent authority undertake an Appropriate Assessment (AA) in relation to the likely significant effects of the proposal on the integrity of the SAC. In undertaking this AA, I have had regard to the signed and executed UU, the AA undertaken by the Council prior to its determination of the application, the Council's mitigation strategy for Ashridge Commons and Woods Site of Special Scientific Interest, and the consultation responses from Natural England.
16. Partner Councils (including Central Bedfordshire Council) have worked with Natural England to produce a mitigation strategy in respect of the Ashridge Commons and Woods SSSI. Objectives identified within this strategy include; deflecting visitors away from the site by the provision of alternative sites; better managing visitor distribution and numbers within the site; and, reducing the

impacts of recreation within the site by both protecting sensitive features and influencing visitors to change their damaging behaviours.

17. As such, and to overcome any adverse effects on the SAC from qualifying developments, the mitigation strategy includes a requirement for a financial contribution to be made towards a SAMM strategy - which would be used to support access management and engagement works within the SAC. It also indicates that qualifying development must contribute towards either a new bespoke SANG or contribute towards strategic SANG projects elsewhere - to enable the provision of alternative recreational spaces remote from the SAC.
18. The UU includes commitments to make SAMM and SANG payments to the Council prior to the commencement of the development. These contributions align with those identified within the mitigation strategy and the Council's AA, and I am satisfied that credits are available towards the provision of the Studham Common SANG identified in the mitigation strategy. Furthermore, in its response dated 2 November 2023, Natural England advises that subject to the mitigation measures set out within the Council's AA being secured then it has no objection to the scheme. That being the case, I am confident that suitable mitigation would be provided, which would prevent an adverse effect on the integrity of the SAC from the development. Furthermore, and given that the UU is necessary to secure the required mitigation, it meets the 3 tests outlined at paragraph 58 of the Framework.
19. For these reasons, the development would not cause harm to the Beechwoods SAC habitat site. Consequently, the development would comply with policy EE3 of the Local Plan. Amongst other things, this policy seeks to ensure that development proposals avoid negative impacts on biodiversity and geodiversity, but where this is not possible, it requires that unavoidable impacts be mitigated or compensated.

Other Matters

20. Any disputes in respect of legal covenants affecting the appeal site are private matters to be resolved between the relevant parties.
21. Concerns have been expressed that some trees were removed from the site prior to the planning application being submitted. Even if this is the case, from the evidence before me, I cannot conclude that any such trees were protected or that the works to remove them was unauthorised.
22. The evidence indicates that the site is within 250m of the Houghton Regis Marl Lakes Site of Special Scientific Interest, a notifiable feature of which is the greater crested newt (GCN). A GCN survey and assessment has been produced by an appropriately qualified ecologist. Amongst other things, this finds that the terrestrial habitat within and surrounding the site does not include any features that might be considered to have potential for GCN, and, that multiple barriers to newt movement mean that it is highly unlikely that GCN would occur within the area. Moreover, and having reviewed the plans and the GCN survey and assessment, Natural England has indicated that the development will not have a likely significant effect on the Houghton Regis Marl Lakes Site of Special Scientific Interest. I have no reason to find otherwise and proceed accordingly. That being the case, and subject to a biodiversity mitigation strategy and method statement which specifically addresses GCN being produced and then implemented, the development would not cause harm to GCN or to this SSSI. This could be secured via a condition.

Conditions

23. The wording of the Council's suggested conditions has been amended where appropriate. This is for clarity and to meet the six tests within paragraph 57 of the Framework. The statutory condition which specifies the time-period for the implementation of the development is imposed. For certainty, a plans condition is also added, which identifies the plans to which the permission relates.
24. A condition requiring the appellant to adhere to the Council's environmental code of practice is not needed. This is because a separate biodiversity condition is imposed. Such a condition is required to ensure that the development would benefit and provide suitable protection to biodiversity. Furthermore, this is required to be a pre-commencement condition, to prevent/minimise harm to biodiversity during site clearance and excavation works.
25. Given the proximity of other dwellings to the site, and to protect the living conditions of their occupiers, conditions are needed in respect of construction management and the first-floor window in the side elevation of the proposed dwelling.
26. The Council has requested the removal of the permitted development rights at Classes A and E of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2025 – as amended. However, it has not been demonstrated that harm would be caused to the conditions of occupiers of neighbouring properties from works within these Classes. Moreover, condition A.3 of Class A of this same part of the Order, requires that any upper floor window in a wall forming a side elevation of the dwelling be obscure glazed and non-opening below 1.7m above the floor of the room in which the window is installed. Therefore, and even if further first-floor windows were to be formed within the side elevation of the proposed dwelling, the privacy of the occupiers of neighbouring properties would be protected. For these reasons, there is no need to impose a condition removing rights to undertake works that would be permitted development.
27. To protect the character and appearance of the area, it is necessary to impose conditions regarding boundary treatments and the external materials that would be used. For the same reason, a condition requiring the proposed works to alter the roof form of the house at number 8 be completed prior to the occupation of the new dwelling is added. This is because, without such a condition, I cannot be certain that this element of the scheme would be undertaken.

Conclusion

28. For the reasons given above, and having regard to the development plan as a whole and any material considerations, this appeal should be allowed.

V Simpson

INSPECTOR

Cont.

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 drawing no FaPL01 Rev E.
- 3) No development shall take place and no site clearance in preparation for the development hereby permitted shall be undertaken until a biodiversity mitigation and enhancement strategy and method statement has been submitted to and approved in writing by the Local Planning Authority. As a minimum, this shall include:
 - details of all existing trees and hedgerows on the site,
 - identification of any trees and hedgerows to be retained, and measures for their protection throughout the course of the development;
 - details of the actions to be taken in the event that greater crested newts are discovered within the appeal site during the works;
 - an implementation and maintenance schedule.

The development shall subsequently be carried out in accordance with the approved scheme.

If within a period of five years from the first occupation of the dwelling, any retained trees or hedgerows die, are removed, or become seriously damaged or diseased, these shall be replaced in the next planting season with others of similar size and species.

- 4) No development above ground level shall take place until details / samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall subsequently be undertaken in accordance with the approved details / samples.
- 5) The dwelling hereby permitted shall not be occupied until details of the positions, design, and materials of any boundary treatments to be erected on the site have been submitted to and approved by the Local Planning Authority. The development shall subsequently be undertaken in accordance with the approved details.
- 6) The dwelling hereby permitted shall not be occupied until the first-floor window in its northeastern side elevation has been fitted with obscured glazing, and no part of that window that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Thereafter, this window shall remain obscurely glazed and non-opening for the first 1.7m above the floor level of the room it serves.
- 7) The dwelling hereby permitted shall not be occupied until the works to the roof of the house at number 8 Farriers Way have been completed in accordance with the details on the approved plans.
- 8) The development hereby permitted shall be undertaken in accordance with the Council's adopted 'Construction code of practice for developers and contractors - November 2023 update'.

End of conditions.