



Appeal Decision

Site visit made on 16 June 2025

by **L Fern BA(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20th August 2025

Appeal Ref: APP/Y0435/W/25/3361062

The Orchard, East Street, Olney, Milton Keynes MK46 4DW

- 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 James Peter of C & DP against the decision of Milton Keynes Council.
 - The application Ref is 24/01863/FUL.
 - The development proposed is demolition of existing dwelling house and outbuildings, and erection of a replacement two storey dwelling house including linked garaging and all enabling works.
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Decision

1. The appeal is allowed, and planning permission is granted for demolition of existing dwelling house and outbuildings, and erection of a replacement two storey dwelling house including linked garaging and all enabling works at The Orchard, East Street, Olney, Milton Keynes MK46 4DW in accordance with the terms of the application Ref 24/01863/FUL and subject to the conditions set out in the attached schedule.

Applications for costs

2. An application for costs was made by Mr James Peter of C & DP against Milton Keynes Council, which is the subject of a separate decision.

Preliminary Matters

3. A Unilateral Undertaking (UU) was submitted during the appeal process, which seeks to secure the self-build status of the proposed dwelling. Although the UU was submitted late in the process, the Council has been afforded the opportunity to comment, and I am therefore content that no party has been prejudiced. I consider the UU further, later in my decision.

Background and Main Issue

4. A separate decision has been made by the Council¹ since the submission of this appeal, relating to a planning application for a similar scheme on the same site to that which is before me. Further evidence was submitted to demonstrate that the appeal site is residential curtilage, which has been accepted by the Council. Despite the new application being refused on design grounds, contention with regards to the use of the site has now been alleviated and the Council has therefore chosen to remove the second reason for refusal. I have determined the appeal on that basis.
5. It therefore follows that the main issue is the effect of the proposed development on the character and appearance of the area.

¹ Council Ref PLN/2025/0347, refused on 16 April 2025.

Reasons

6. The appeal site is known as The Orchard, East Street (The Orchard). It forms a large part of a sizeable parcel of land set within a back land location, positioned between the largely open expanse of the publicly accessible Olney Recreation Ground (ORG) and a combination of more modern and older predominantly residential properties. This part of Olney is mixed in terms of built form, the spacing between buildings, plot sizes and the design of properties, the eclectic mix of which adds to its character. For example, some buildings are clustered together and take the appearance of a sprawling range with varying roof designs and orientations, such as those off East Street, which are included in the backdrop to ORG.
7. Most of The Orchard has already been cleared of vegetation and outbuildings. However, a brick built two-storey dwelling, of no particular architectural merit, remains in the vicinity of the opening onto the long and narrow access lane from East Street. The shared boundaries with ORG comprise tall close boarded fencing with a combination of hedge and tree planting within the site, including some mature specimens, which provide a verdant element to ORG's setting.
8. Despite being much larger than the original property, the proposed replacement dwelling would sit comfortably within this spacious plot, affording significant separation distances to be maintained between the building and the boundaries. Furthermore, the changes in roof height and orientation across the dwelling would provide design interest and assist in breaking up its built mass and are consistent with other clusters of properties in the area, such as those adjacent to ORG's entrance.
9. Views of the proposed dwelling from ORG, even taking account of seasonal variations in leaf cover, would be largely obscured by the existing boundary features, which are proposed to be significantly supplemented with additional hedge and tree planting, thereby maintaining the site's tranquil and verdant contribution to the locality. In any case, the appellant has afforded careful consideration of the proposal's relationship with ORG. The dwelling would be positioned centrally within the site and most of the elevation closest to ORG would be single storey in height and the two-storey element would benefit from a reduced ridge and eaves height.
10. The proposal takes appropriate material references from the locality, including the use of slate and stone, which will assist in assimilating it into its surroundings. Whilst not a common feature in the surrounding area, the full height glazing would add a contemporary touch to an otherwise traditional design, which would add to the varying property designs and styles in the area. Furthermore, given the substantial plot's discrete location, views of the largely ground floor glazing would be minimal.
11. Thus, I conclude that the proposal would not be detrimental to the character and appearance of the surrounding area. Consequently, the proposed development would comply with Policies SD1, D1, D2 and D3 of the Plan:MK (2019), which seek to ensure that, amongst other things, development proposals respond appropriately to the site and surrounding context, exhibit a positive character or sense of place and the character of a development is locally inspired where appropriate.

Other Matters

12. Olney Town Council raised concerns regarding the suitability of the access lane and its proximity to the nearby fire station. The Council's highways team raised no objection in this respect given that the proposal seeks a replacement dwelling, which is unlikely to lead to an intensification of use. I see no reason to disagree.

Planning Obligation

13. A signed UU pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) is before me, dated 28 July 2025. The UU contains provision to secure the proposed development as self-build and/or custom-build (SBCB) housing. Following amendments to the UU made by the appellant, there is no dispute between the parties relating to the provisions in the UU in that regard and I am satisfied that its content is fit for purpose and secures the SBCB housing status of the proposal.
14. The Council has raised concern that the UU does not make provision to cover their legal fees. The deed in this case was entered into unilaterally by the landowner without the requirement for the Council to be directly involved from a negotiation, preparation or completion perspective. No substantiated evidence is before me to demonstrate the Council needed legal involvement or whether the fees above are proportionate and reasonable.
15. The UU includes a fee of £1,000 to be paid to the Council to undertake monitoring of the planning obligation. The Council contends that this figure is too low and have requested a significantly increased fee. Comments from the Council suggest that monitoring will be required and that this is the lowest tier fee within their adopted Fee and Charges Schedule. However, I have not had sight of this document. Furthermore, the UU is simple in form and seeks to secure the SBCB housing status of the proposed development only to justify its exemption from otherwise mandatory Biodiversity Net Gain requirements. I am not convinced that extensive monitoring of the UU will be required in this case and there is no substantiated evidence to demonstrate the acceptability of the level of monitoring fees requested by the Council.

Conditions

16. I have had regard to the planning conditions suggested by the Council and the comments in relation to them provided by the appellant. I have also considered them against the tests in the National Planning Policy Framework (the Framework) and the advice in the Planning Practice Guidance (the PPG).
17. In addition to the standard time limit condition, I have imposed a condition specifying the approved plans as this provides clarity. Drawing No EST(P)3001 – Section 1 has been omitted as it was included in error, which was confirmed in writing by the appellant. I have imposed a condition relating to materials to safeguard the character and appearance of the area.
18. I have imposed two pre-commencement conditions in relation to the protection of existing trees and hedges, which have been accepted in writing by the appellant. I have also imposed a condition requiring all tree works to be undertaken in-line with the relevant British Standards. These conditions are required in the interests of protecting habitats and safeguarding the character and appearance of the area.

19. I have imposed a condition relating to planting, seeding and turfing in the interests of ensuring the permitted soft landscaping scheme is implemented in a timely manner and managed appropriately thereafter. I have imposed a condition requiring the sustainable drainage system to be implemented in accordance with the submitted details to reduce the risk of flooding.
20. A condition requiring the implementation of the car parking spaces has been imposed in the interests of highway safety. I have imposed a condition requiring the implementation of ecological mitigation measures in the interests of safeguarding protected species. Finally, I have imposed a condition requiring the provisions of the sustainability statement to be implemented in accordance with Policy SC1 of the Plan:MK.
21. The Council has suggested several other conditions in relation to cycle storage, car parking provision, the submission of information relating to tree protection measures and a landscaping scheme, protected species avoidance and mitigation measures and a requirement for the submission of an ecological mitigation measures compliance report. These suggestions are either unnecessary or are duplications of the provisions already put in place within my schedule of conditions. Such conditions would fail to meet the tests set out in the Framework and the PPG.
22. Furthermore, the Council has also requested the imposition of a condition requiring confirmation from Natural England of the issuing of a licence or that a licence is not required. The Bat Survey demonstrates that no bats were present during survey work, and it is therefore unclear why a licence would be required. Furthermore, Natural England has confirmed in writing that they do not comment on whether licences are required or not. Such a condition would therefore be unreasonable and unnecessary in this instance.

Conclusion

23. Based on the above considerations, I conclude that the proposal accords with the development plan and the appeal should be allowed.

L Fern

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 following approved plans: Drawing No EST(P)090 – Site Location Plan; Drawing No EST(P)4000 – Site Plan (Proposed); Drawing No EST(P)020 – Ground Floor Plan; Drawing No EST(P)021 – First Floor Plan; Drawing No EST(P)022 – Roof Plan; Drawing No EST(P)3000 – Elevations 1; Drawing No EST(P)3001 – Elevations 2; Drawing No 12298L.HSLP.001 Rev B – Hard and Soft Landscape Plan.
- 3) The external surfaces of the development hereby permitted shall be constructed in the materials shown on Drawing Nos EST(P)3000 and EST(P)3001 and identified on the application form.
- 4) No site clearance, preparatory work or development shall take place until a scheme of appropriate working methods (an arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Tree in relation to design, demolition and construction – Recommendations (or in an equivalent British Standard if replaced) has been submitted to and approved in writing by the local planning authority. The arboricultural method statement shall be carried out as approved.
- 5) No site clearance, preparatory work or development shall take place until the tree and hedge protection measures set out in the Arboricultural Impact Assessment (Ref 11899_AIA.001 Rev A) have been carried out. The tree and hedge protection measures shall be maintained thereafter for the duration of construction activities.
- 6) All tree work shall be carried out in accordance with British Standard BS 3998: Tree work: Recommendations (or an equivalent British Standard if replaced).
- 7) All planting, seeding or turfing set out on the Hard and Soft Landscape Plan (Drawing No 12298L.HSLP.001 Rev B) shall be carried out in the first planting and seeding season following the occupation of the dwelling or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 8) The dwelling hereby permitted shall not be occupied until the sustainable drainage system for the site has been completed in accordance with the Flood Risk Assessment and Drainage Strategy Report (Ref 31392), dated August 2024. The sustainable drainage system shall be managed and maintained thereafter in accordance with the maintenance strategy contained within the same report.
- 9) The development hereby permitted shall not be occupied until the vehicle parking spaces have been provided in accordance with Drawing Nos

EST(P)4000. Thereafter those spaces shall be retained for the parking of vehicles only.

- 10) The development hereby permitted shall be carried out in accordance with the recommendations and mitigation measures set out in the Preliminary Ecological Appraisal dated January 2024 and the Bat Survey dated July 2024.
- 11) The development hereby permitted shall be carried out in accordance with the provisions in the Sustainability Statement.

*****End of Conditions*****