



Report to Central Area Planning Committee

Application Number:	20/03388/APP
Proposal:	Variation of Condition 13 (approved plans - added under non-material amendment approval 16/B0472/NON) of planning permission 16/00472/APP to allow for changes to the design of plots 3 and 4, changes to slab levels, removal of external steps, revised paths and retaining walls.
Site Location:	Site Of The Former 54 Castle Street Aylesbury Buckinghamshire
Applicant:	Mr Raj Khan
Case Officer:	Helen Fadipe
Ward(s) affected:	Aylesbury North
Parish-Town Council:	Aylesbury Town Council
Date valid application received:	06/10/2020
Statutory determination date:	01/12/2020
Recommendation	Approval

1.0 Summary & Recommendation/ Reason for Planning Committee Consideration

1.1 This application seeks to vary planning condition 13 (approved plans - added under non-material amendment approval 16/B0472/NON) of planning permission 16/00472/APP to allow for changes to the design of plots 3 and 4, changes to slab levels, removal of external steps and paths. Planning Permission 16/00472/APP was granted on 24/10/2016 for four dwellings with associated parking and landscaping following the consideration of the application by the legacy Aylesbury Vale District Council Development Management Committee . This report therefore considers the design changes between the two proposals and assess whether those alterations would be acceptable. Fundamentally, the amendments are considered to be minor in nature compared to that which already benefits from extant permission. The proposed revisions to the design of plot 3 and 4, changes in the slab levels, and removal of the external steps including revised paths and retaining walls would preserve and not harm the nearby listed buildings/ features and their setting and the conservation area which are heritage assets.

- 1.2 The application has been evaluated against the Development Plan and the NPPF. Paragraph 11 of the NPPF sets out the presumption in favour of sustainable development which for decision taking this means approving development proposals that accord with an up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. The application has been evaluated against the Development Plan, the emerging VALP as a material consideration and the NPPF. The Authority has assessed the application against the objectives of the NPPF and whether the proposals deliver 'sustainable development'.
- 1.3 The development would make a contribution to the housing land supply which weighs in favour of the proposal. There would also be economic benefits in terms of the construction of the development itself and those associated with the resultant increase in population on the site to which also weighs in favour of the proposal.
- 1.4 Compliance with the objectives of the NPPF have been demonstrated in terms of the parking provision, promoting healthy communities, the design of the development, impacts on the natural environment. Subject to the receipt of heritage comments, the proposal seeks to preserve and not harm heritage assets. These matters do not represent benefits to the wider area but demonstrate an absence of harm.
- 1.5 The proposed site layout and number of dwellings remains the same. Non material amendments have been made to the floor plans and elevations for plots 1 and 2 following the grant of planning. The material change to the approved plans involving alterations to the design of Plot 3 and 4, the slab levels, removal of the external staircase revised path and retaining wall together with the non material amendments previously approved as a non material amendment are considered to reflect the appearance and character of the area and context of the site.
- 1.6 Weighing all the above factors and having regard to the NPPF as a whole it is considered that the proposal would accord with the development plan policies and there are no material considerations to indicate otherwise.
- 1.7 The application is reported to committee in accordance with the constitution as the applicant is Councillor Raj Shah.
- 1.8 The Officer recommendation is that the application be Deferred and Delegated to officers for approval subject to the receipt of outstanding heritage comments as set out in the report and subject to any conditions considered appropriate

2.0 Description of Proposed Development

- 2.1 The site is to the rear (north) of 52-58 Castle Street with the access (approx. 4m wide and some 18m long) running between no. 52 and no. 56. The access slopes up from Castle Street. The main part of the site at the eastern end is flat,

originally occupied by a single storey building. To the west of the site is an overgrown grassy bank which slopes down to Friarage Road. To the north-west is a small residential development on the former Big Hand Mo's site. To the north Chadbone Close backs onto the site with the houses around 10m away from the boundary. To the east is the long rear garden of no. 50 Castle Street extending back to Chadbone Close. The gardens of 56 and 58 Castle Street are much shallower at around 6m in depth.

2.2 The site lies within the Conservation Area and the properties no. 48 - 58 Castle Street either side of the access are grade II listed, including the wall to the boundary to the north west.

2.3 This application seeks variation to Condition 13 (approved plans - added under non-material amendment approval 16/B0472/NON) of planning permission 16/00472/APP to allow for changes to the design of plots 3 and 4, changes to slab levels, removal of external steps, revised paths and retaining wall

3.0 Supporting Information

3.1 The application is accompanied by plans and the following supporting information:

- a) Arboricultural Method Statement dated August 2020
- b) Archaeological Evaluation, Report No 1057 dated March 2017
- c) Flotation Check – April 2020
- d) Ground Investigation Report – Reference MRS /14548 dated 8 February 2018
- e) SUDS Assessment
- f) SUDS Maintenance and Management Plan
- g) Surface Water Drainage Strategy
- h) Site Photos

4.0 Relevant Planning History

02/03222/APP - Change of use from electrical repair shop to belly dance school (retrospective) – Approved

16/00472/APP - Erection of four dwellings with associated parking and landscaping – Approved

16/A0472/DIS - Submission of details pursuant to Condition 2 (materials) 3 (soft and hard landscaping) 4 (tree protection) 5 (details of screen and boundary wall/fences) 6 (details of protection to existing walls/trees) 7 (slab levels) 8 (drainage) 10 (details of amended floor/elevation plans) and 11 (archaeological) relating to Planning Permission 16/00472/APP – Part discharged

16/A0472/NON - Non material amendment to application 16/00472/APP - Removal of external steps, revised paths & retaining walls. – Refused.

16/B0472/NON - Non material amendment to application 16/00472/APP - Improve elevation treatment to plots 1 & 2- Approved

16/B0472/DIS - Submission of details pursuant to Condition 2 (materials) 3 (soft and hard landscaping) 4 (tree protection) 5 (details of screen and boundary wall/fences) 7 (slab levels) and 8 (surface water drainage) relating to Planning Permission – Pending

16/C0472/DIS - Submission of details pursuant to Condition 2 (materials) 3 (soft and hard landscaping) 4 (tree protection) 5 (details of screen and boundary wall/fences) 7 (slab levels) 8 (drainage) 10 (details of amended floor/elevation plans) relating to Planning Permission 16/00472/APP – Pending

5.0 Policy Considerations and Evaluation

Aylesbury Vale District Local Plan (AVDLP 2004): The report will identify where policies are not consistent with the NPPF and the weight to be afforded if the policy does not attract full weight.

Emerging Vale of Aylesbury District Local Plan (VALP): This is now at an advanced stage and weight can be given to the relevant policies in the plan in accordance with the NPPF. The overall approach is:

- **Limited weight:** if there is a new and untested policy introduced by a main modification and subject to consultation.
- **Moderate weight** :where there are objections and the Inspector has requested main modifications and therefore objections can be regarded as being “resolved”. The context being that the Inspector has considered the proposed modifications and in agreeing them for consultation, has confirmed that he is reasonably satisfied that they remedy the points of unsoundness identified in the examination process so far (as set out in Inspector’s note ED185).
- **Considerable weight** : where there are objections but the Inspector has not requested main modifications (and as such the policy will not be changed in a material way) and the objections can therefore be regarded as being “resolved”.
- **Significant weight** :where there are no objections and no modifications. These policies are not going to be changed and the next step will be adoption and very significant weight.

The report will identify the weight to be given to the relevant emerging policies.

The National Planning Policy Framework

National Planning Policy Guidance

Principle of Development

5.1 Aylesbury Vale District Local Plan: AY31 Housing in the town centre, GP35 (Design of new development proposals); Emerging Vale of Aylesbury District Local Plan: S1 (Sustainable development for Aylesbury Vale) (*considerable weight*); S2 (Spatial strategy for growth), & S3 (Settlement hierarchy and cohesive development) (*moderate weight*), BE2(Design of new development) (*moderate weight*).

5.2 Planning permission was granted on 24/10/2016 which remains extant and thus the principal of the development has already been established. The current proposal retains the footprint of the dwellings as originally approved, with amendments sought to the elevational detail, slab levels to plots 3 and 4, roof

design and fenestrations; removal of the stairs, revised paths and retaining wall. There would be no increase in the number of dwellings as originally granted permission. Whilst the development was initially commenced, work has not progressed on site.

5.3 The principle of residential development on this site and the amount of development has therefore been previously accepted, furthermore due to the commencement of the 2016 permission, substantial weight can be given to this as a material consideration. It is not considered that the current proposal would give rise to conflicts with Policies AY31, GP35 AVDLP, Policies S1, S2 and BE2 of VALP and the NPPF .

5.4

6.0 Visual Impact of the Development

6.1 The design approved in 2016 was considered to be acceptable by the Development Management Committee subject to conditions. The revised architectural detailing for plots 3 and 4 includes a cantilevered porch detail compared to the pyramidal porch, and fenestration details would be more traditional in appearance and better respects the distinctive historic character of the old town of Aylesbury (that extends to the east along Castle Street), rather than the adjacent late C20 development. It is considered that these changes including the materials would be acceptable.

6.2 The slab levels have been revised showing a slab level approx. 2-2.3m above Friarage Road compared to the indicative 2m in the original permission and to reduce the height of the frontage wall to Friarage Road, with the retaining wall set back into the site behind a landscape area. The impact of the raised slab levels of plots 3 and 4 is considered to be minimal in terms of the street scene. Partly, this is due to the ridge height of the redesigned roofs is lower than the originally approved scheme.

6.3 The amended plans, showing the boundary treatment, and the hard and soft landscaping, shows a low wall with railing to the street frontage, and retaining walls set back in the site with railing above including a pathway to Plot 3 & 4. The proposed finish to the retaining walls is the artificial stone that has been used along the retaining wall to the park on Friarage Road. The railings are to match those used on the adjacent 'Hen and Chickens' development and are backed by Beech hedging. The amendments to the submitted plans seek to ensure that the proposal would be sympathetic to the character of the area and conservation area. Members will be updated at the committee meeting regarding the comments of the Heritage officer to the revisions to the retaining wall and boundary treatment .

6.4 The external staircase and footpath approved as part of the original application has been removed from the approved plans , the removal has a positive impact on the streetscene and the character of the conservation area and is considered acceptable. A more detailed assessment on heritage is dealt with below.

6.5 As a result, it is considered the changes to the slab level, design to plots 3 and 4; removal of the stairs and revised path are in accordance with the aims of saved policy GP.35, the policy advice of the NPPF and emerging policy BE2 of the VALP.

7.0 Heritage Impacts

AVDLP: GP53 - New development in and adjacent to Conservation Areas

VALP: BE1 - Heritage Assets (moderate weight)

7.1 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on local authorities to pay special regard to the desirability of preserving or enhancing the character or appearance of Conservation Areas. This is generally reflective of policy GP53 of the AVDLP and policy BE1 which make more specific references to individual characteristics which should be preserved and include, for example, views into or out of conservation areas. However, saved policy GP53 of the AVDLP is not entirely consistent with the 'language' of the NPPF set out in paragraphs 193 and 196 as they apply in this instance, because it doesn't go on to comment on a heritage assets 'significance', how this harm should be quantified, and the balancing of harm against public benefits. It is therefore considered that policy GP53 can only be given limited weight

7.2 The application site is to the rear of no. 52, 56 and 58 Castle Street which are all Grade II Listed. In close proximity is Prebendal House which is Grade II*. Numbers 48 to 58 Castle Street are all Grade II Listed Building, formerly a row of building now with a gap where no.54 once stood which now provides the access to application site located to the rear of 52, 56 and 58. Adjacent to the site, to the north is the 20th century development Chadbone Close, built within the historic curtilage of Prebendal House (GII*). The shared boundary retains the historic wall of Prebendal House. These designated heritage assets and the application site to the rear are within the Aylesbury Conservation Area, a heritage asset.

7.3 The Heritage Officer considered the plans submitted with the application in respect of the impact on the character and appearance on the conservation area (CA) along with the setting of nearby listed buildings. The Heritage Officer's observes that 'plots 3 and 4 are located towards the west of the site facing towards Friarage Road and will be the most visible within views of the listed buildings along Castle Street. From the proposed sections the ridge height of these dwellings will be lower than those of the listed buildings and therefore the revised slab level is acceptable". Furthermore the Heritage Officer notes "that the proposed dwelling for plots 1 and 2 are higher, but these are positioned to the rear of the listed buildings and therefore views interrupted. Considering their context, they are also closer to the steep pitched roofs of Chadbone Close and therefore the step up in ridge height reasonable. The revisions are minor changes in the design of the proposed dwellings, which includes the simplification of the roof lines, so they appear more in keeping with the surrounding buildings. Other changes included a more sympathetic front door design and canopy, both of which are welcomed.

7.4 The Heritage Officer has no objection to the variation of condition application on the basis that the proposal addresses the boundary treatment and especially the detail relating to impact on the listed wall to the north west which would be preserved. In terms of the frontage treatment, the original submission proposed a higher front and second retaining walls, on which the heritage officer raised some concerns. Revised plans have been submitted replacing the front retaining wall with a low wall and railings and retaining wall with railings above set back and separated by a landscape planted area to overcome these concerns. The comments of the Heritage officer will be reported to Members at the committee meeting.

7.5 On balance, there is considered that the proposal would preserve not harm the significance of the grade II listed wall and setting of the listed buildings in the locality or the conservation area and no conflict with the aims of Section 16 of the NPPF, GP53 of AVDLP or emerging policy BE1 of VALP.

8.0 Trees

8.1 The site itself has no existing trees. However, there are a number of trees within neighbouring properties that have potential to be affected. Of note is the Ash that is under a Tree Protection Order (TPO).

8.2 The applicant has submitted an Arboricultural Method Statement (AMS) that has confirmed the TPO Ash Tree (T4 within the survey) has not been impacted upon by the works within the site to date. However, excavations adjacent to the northern intervening boundary impacted upon a neighbouring tree (T3 – early mature Ash). The tree appeared generally healthy at the time of the inspection (being category A under the BS5837 assessment criteria). However, approximately 30% of the tree's roots have been lost and it has been concluded that retention of the tree is not compatible with the approved development proposals. It is recommended that the tree could be removed or works are undertaken to reduce the size of the tree to compensate for the loss of roots. The applicant has confirmed that the adjacent landowner has not given permission for the removal of the tree or works to reduce it and it is outside their control.

8.3 To compensate for the eventual loss of the neighbouring tree the applicant has proposed to plant a replacement in between the parking spaces that will serve plots 3 and 4. The tree proposed is a Liquidambar styraciflua, planted at a height of around 4-4.5 metres. The new tree would eventually reach a height of between 15-20 metres, in a conical shape so there is little concern that canopy spread would interfere with the new dwellings. It is considered it would contribute a natural feature to the site and would compensate for the eventual loss of the T3 Ash on the neighbouring site.

8.4 Three Liquidambar styraciflua would also be planted on the grass verge between plot 3 and the neighbouring dwelling at 58 Castle Street. Along with a beech hedge, planted along the site frontage and a mixture of shrub planting around the perimeter of the site suitable green screening which would soften the impact of the retaining wall, would be secured by condition.

8.5 . Tree protection measures and the proposed construction methodology has been detailed within the AMS and can be secured by condition.

9.0 Amenity of existing and future residents

AVDLP: GP.8 (Protection of the amenity of residents)

VALP: BE3 (Protection of the amenity of residents) and NE5 Pollution, air quality and contaminated land (*both considerable weight*)

9.1 The original application has been assessed in terms of impact on existing and future residents, and it was concluded that there would be no adverse impact on the neighbouring properties, subject to the repositioning of the south facing window in plot 1 secured through condition. The submission of the non-material amendment application addressed the window to plot 1 r/o Castle Street to safeguard privacy of those residents. The proposed change in levels and elevational changes would not have an adverse impact on neighbouring occupiers. A condition restricting the PD rights for dwellings additions and alterations, was originally imposed and is still recommended to mitigate any potential additional impacts that might occur as a result of such development.

9.2 It is considered therefore that the proposed development would not unduly harm the residential amenities of nearby properties in terms of their light, outlook or privacy nor in terms of the noise, disturbance or air quality caused by the access, and traffic and provide a satisfactory level of amenity for the proposed residents. It is therefore considered the proposal would accord with policy GP8 of AVDLP, BE3 of VALP and relevant advice in this regard contained in the NPPF. it is considered this lack of impact should be afforded neutral weight.

10.0 Flooding and drainage

VALP: I4 (Flooding) and I5 (water resources and wastewater infrastructure) (*both moderate weight*)

10.1 The site is within Flood Zone 1, an area in which flood risk is low. A Drainage strategy for the site has not been provided at this stage however condition 8 imposed on the original planning permission require the submission a foul water drainage scheme and surface water drainage scheme prior to the occupation and commencement of development respectively.

10.2 Whilst the LLFA have requested indicative details are provided at this stage and the applicant has been encouraged to provide this and also to consider the implications of alterations to the site layout in providing acceptable drainage schemes, this detail is the subject of a separate discharge of conditions submission.

10.3 Having regard to the above matters, it is considered that the development could be appropriately flood resilient and that surface water drainage and foul drainage details will be considered through the discharge of conditions process in accordance with the original permission. As such the development would accord with emerging policies I4 and I5 of the VALP, and with the NPPF.

11.0 Archaeology

AVDLP: GP.59 Archaeology and Ancient Monuments

VALP: BE1 Heritage Assets

11.2 This application in line with Condition 11 of 16/00472/APP, geophysical survey and archaeological trial trenching were carried out within the application site.

11.2 The Archaeology Officer has stated that 'Heritage Network has undertaken an archaeological evaluation in the form of trial trenching on the site and have supplied the report. Of the two trenches one was archaeologically negative the other contained a number of linear features which may represent garden or boundary features. Further archaeological features may be encountered during the development, but these are not expected to be of a level to warrant further investigation' On this basis, it is considered that the condition is discharged on the basis of the submitted information: Archaeological Evaluation, Land to r/o 54 Castle Street, Aylesbury, Buckinghamshire, Heritage Network, dated March 2017.

12.0 Conditions:

There are supporting documents submitted with the application and separate submissions relating to the discharge of conditions attached to the original application. There are some outstanding comments awaited and members will be updated at the meeting as an addendum.

13.0 Weighing and balancing of issues / Overall Assessment

13.1 This section brings together the assessment that has so far been set out in order to weigh and balance relevant planning considerations in order to reach a conclusion on the application.

13.2 In determining the planning application, section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In addition, Section 143 of the Localism Act amends Section 70 of the Town and Country Planning Act relating to the determination of planning applications and states that in dealing with planning applications, the authority shall have regard to:

- a. Provision of the development plan insofar as they are material,
- b. Any local finance considerations, so far as they are material to the application (such as CIL if applicable), and,
- c. Any other material considerations

13.3 This variation of condition application relates to 16/00472/APP where the principle of the development was accepted and this is a material consideration in the determination of this application.

13.4 The application has been evaluated against the Development Plan and the NPPF. Paragraph 11 of the NPPF sets out the presumption in favour of sustainable development which for decision taking this means approving development proposals that accord with an up-to-date development plan without delay; or where there are

no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. The application has been evaluated against the Development Plan, the emerging VALP as a material consideration, and the NPPF. The Authority has assessed the application against the objectives of the NPPF and whether the proposals deliver 'sustainable development'.

- 13.5 There are relevant development plan policies that apply to this application. Those policies which are most important for determining this application are GP8, GP35, and GP53 of AVDLP. Policy GP53 is not wholly consistent with the NPPF, is out of date and thus is given limited weight. Policy GP8 and G35 are however in full compliance with the NPPF . It is considered that these policies taken as a whole are regarded in this instance as being up to date in relation to NPPF paragraph 11.
- 13.6 The development has already been assessed as making a contribution to the housing land supply with the original permission which weighed in favour of the proposal. There would be economic benefits in terms of the construction of the development itself and those associated with the resultant increase in population on the site which also weighs in favour of the proposal.
- 13.7 The proposed site is close to the town centre and in easy walking reach of facilities and services including public transport and is therefore considered to be a sustainable location for a small proposal such as this. The principle of development of this site was considered acceptable for a development of up to 4 dwellings.
- 13.8 Compliance with the objectives of the NPPF have been demonstrated in terms of the parking provision, promoting healthy communities, the design of the development, impacts on the natural environment, and impacts on the highway. Subject to the receipt of heritage comments on the amended plans the proposal would seek to preserve and not harm heritage assets. These matters do not represent benefits to the wider area and heritage impact of the proposed retaining wall ad boundary treatment need to be assessed
- 13.9 Weighing all the above factors and having regard to the NPPF as a whole it is considered that the proposal would accord with the development plan policies and there are no material considerations to indicate otherwise.
- 13.10 Local Planning Authorities, when making decisions of a strategic nature, must have due regard, through the Equalities Act, to reducing the inequalities which may result from socio-economic disadvantage. In this instance, it is not considered that this proposal would disadvantage any sector of society to a harmful extent.

14.0 Working with the applicant / agent

- 14.1 In accordance with paragraph 38 of the NPPF (2019) the Council approach decision-taking in a positive and creative way taking a proactive approach to development proposals focused on solutions and work proactively with applicants to secure developments.

14.2 The Council work with the applicants/agents in a positive and proactive manner by offering a pre-application advice service, and as appropriate updating applications/agents of any issues that may arise in the processing of their application.

14.3 In this instance the applicant was provided with pre-application advice and, following the submission of the formal application, discussions were held with the applicant's agent to discuss a number of issues with the proposals and to agree a way forward. The applicant was provided the opportunity to submit amendments to the scheme in order to address the issues raised and providing constructive feedback in order to find a mutually agreeable solution, in particular regarding the description of the proposal and the discharge of the various conditions.

The application is to be considered by the Planning Committee where the applicant/agent will have the opportunity to speak to the committee and promote the application.

15.0 Recommendation

15.1 The application is Deferred and Delegated to officers for approval subject to the receipt of outstanding heritage comments as set out in the report and subject to any conditions considered appropriate

Appendix A: Consultation Responses and Representations

Appendix B: Site Location plan

APPENDIX A: Consultation Responses and Representations

Councillor Comments

None

Parish/Town Council Comments

Aylesbury Town Council have no objection to this application

Consultation Responses

Heritage Officer: The current application for the altered slab level and minor amendments to the design would not raise any heritage objection. However, the outstanding conditions 2, 3, 4, 5 and 8 for 16/B0472/DIS still need to be determined

Response following 2nd reconsultation

26/ 11/2020

The application would not raise any heritage objection subject to the following conditions:

- The timber window frames as proposed should be white/satin
- Landscaping (hard), to include viewing samples on site
- Boundary Treatment

Revisions to retaining wall and boundary treatment – comments awaited

Landscape Officer – Objects to proposed boundary treatment. There is need justification for retaining walls and increased planting.

Revisions to retaining wall and boundary treatment – comments awaited

SUDS – Response awaited

Tree Officer – Response Awaited

Buckingham and River Ouzel Drainage Board – 12 October 2020

No comments to make as the application site is outside of the Board's district.

Representations

None

APPENDIX B: Site Location Plan

