
Appeal Decision

Inquiry held between 4 March and 14 March 2014

Site visit made on 13 March 2014

by M Middleton BA(Econ) Dip TP Dip Mgmt MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 16 April 2014

Appeal Ref: APP/Y0435/A/13/2205359

Cofferidge Close, Stoney Stratford, Milton Keynes, MK11 1BY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by CB Richard Ellis Investors against the decision of Milton Keynes Council.
 - The application Ref 11/00143/FUL, dated 24 January 2011, was refused by notice dated 15 March 2013.
 - The development proposed is partial demolition of the buildings at Cofferidge Close and the construction of a new food retail store, the reconfiguration of the car parking at the site and the replacement of eight private garages.
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Decision

1. The appeal is dismissed.

Procedural matters

2. On 13 January 2014 Appeal ref: APP/Y0435/A/13/2211066 was co-joined with this appeal. That appeal relates to a proposed change of use at Unit 9 Cofferidge Close from A1 retail to D1 dental practice. As the issues that relate to the two appeals are different, that appeal is the subject of a separate decision.
3. As well as on an accompanied site visit on 13 March 2014, I visited the appeal site and its locality, other retail facilities within Milton Keynes and at Towcester, unaccompanied on various occasions whilst the Inquiry was sitting.
4. The Appellant submitted an Agreement made under Section 106 of the Town and Country Planning Act 1990 between itself, its bank and Milton Keynes Council. In this document the Appellant agrees to carry out specified highway improvement works and to make a financial contribution towards the provision of a community orchard at Mortimer Park. It also agrees to make financial contributions towards public realm improvements, carbon neutrality and public art.
5. I discuss the details of the highway and amenity open space matters proposed in the Agreement and their appropriateness in the body of my decision letter. The Deed includes a clause that says that the agreement shall not apply or be enforceable, if I state in the decision letter that no weight can be attached to it in determining the planning appeal. The public realm, carbon neutrality and public art contributions help to satisfy Development Plan (DP) policies that

relate to these matters and seek to improve the built environment and its sustainability at Milton Keynes. I am satisfied that these and the principle of the other measures, comply with the provisions of Circular 05/2005: *Planning Obligations*, are necessary to make the development acceptable in planning terms and meet the *Community Infrastructure Levy Regulations* (CIL) 2010.

Main Issues

6. From all that I have read, seen and heard I consider the main issues to be:

Whether any benefits of the proposal to consumer choice, sustainability and the vitality and viability of Stony Stratford Town Centre are of sufficient weight to outweigh any harm to

- a) the setting of the listed building at Silver Street ;
- b) the character and appearance of Stony Stratford Conservation Area;
- c) biodiversity;
- d) the living conditions at nearby properties;
- e) highway safety and the free flow of traffic in the vicinity of the site.

Reasons

Background

7. Cofferridge Close is a mixed use development that was designed and built by the Milton Keynes Development Corporation. Being conceived and built in the early 1970's, it was one of that organisation's first projects. It successfully sought to introduce commercial and residential development, with car parking, into a historic town centre and conservation area, largely utilising backland that was formerly gardens but also contained areas with fruit trees, commercial buildings and a tennis court. The development has a small presence on High Street and one on Silver Street, to the rear of the site, from where vehicular access is taken.
8. The development comprises ground floor retail development, with offices above, fronting High Street and a pedestrian walkway that leads into the site. This part of the development terminates in a small supermarket beyond and to the rear of which are more offices. The main pedestrian thoroughfare continues towards Silver Street but immediately after the supermarket another one leaves it at right angles, passes under the building and in front of the rear offices, which are single storey, before facilitating pedestrian access from the site to the Market Square.
9. Beyond the supermarket the main pedestrian thoroughfare is fronted by the major area of two storey office accommodation on one side and blocks of intensive landscaping, on the other side of which is a somewhat informal car park with mature trees within and around it. This walkway passes under the part of the building that fronts High Street and is then encased in a colonnade for about half of its remaining length. The car parking area and its circulation space extends around the office building, eventually terminating in a service yard to the rear of the historic High Street properties. There is also an area of informal open space to the rear of the offices, parts of which was formally orchards. This is part bounded by the pedestrian link to the Market Square.

10. Fronting Silver Street is a three storey block of listed dwellings under which the site's only vehicular access passes. The pedestrian walkway from High Street aligns with this and terminates at a point facing it.
11. The development, which is faced in a rustic coloured brick, has come to be regarded as an unusually successful intervention into the historic townscape of Stony Stratford, its linear mall epitomising the Mesian principles that were applied to and characterise early new town buildings. This integration of new-town architecture with the historic townscape of Stony Stratford and its historical association with the early work of the New Town Development Corporation prompted an application to English Heritage for the whole complex to be listed. In 2012 this resulted in the residential properties at 7-23 Silver Street becoming only the second new-town building in Milton Keynes to be listed. At the same time the commercial element of the original scheme was not added to the list, largely because the original structure is no longer intact. The original central bays of the High Street colonnade have been subsequently demolished. Unattractive metal and glass panels, to protect pedestrians from the elements, have also been inserted within the colonnades.
12. The proposal would demolish the central part of the development, replacing the supermarket and the two office wings with a much larger supermarket. Alterations would also be made to the car park, circulation areas, servicing arrangements and the amenity land. The demolished colonnade to High Street would be reinstated and the unattractive metal and glass panels removed. Ironically the removal of the former was the principle reason why the whole complex was not listed.

Harm to the Heritage assets

13. Section 66 of the Planning (listed Buildings and Conservation Areas) Act (the Act) requires decision makers to have special regard to the desirability of preserving the setting of a listed building when considering whether to grant planning permission for development which affects its setting. Section 72 requires them to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area. When considering the impact of a proposed development on the significance of a designated heritage asset, paragraph 132 of the National Planning Policy Framework (Framework) requires great weight to be given to the asset's conservation.
14. Even with the unfortunate alterations, the commercial element of Cofferridge Close makes an important positive contribution to the character and appearance of the Stony Stratford Conservation Area. It stands out through its attention to aesthetics and its integration with the historic setting. Additionally, through the high quality landscaping, which has now matured, sympathetic materials and effective massing, it represents an unusually successful intervention into the historic townscape.
15. There was much debate at the Inquiry as to whether the residential and commercial parts of the development were parts of one integrated design or a complex of related but independent buildings. English Heritage in its listing report clearly considers 7-23 Silver Street to have been "designed as an integral part of Cofferridge Close". The Appellant points out that the detailed design of the two elements are "very different", being built on different

alignments and having different modular dimensions as well as numerous different features of detailing.

16. However, the buildings were designed and constructed contemporaneously by the same architects and in the same dominant material. Whilst the dimensions of the bays may be different, those of the ribs on the commercial elements are repeated on the residential part, as are those of the columns. Although three storey, the brickwork on the dwellings only extends to two and mirrors that of the commercial building. The uses are functionally not the same, with different space requirements, so it is not surprising that there are differences of detailing.
17. The arch under the residential element is deliberately aligned with that adjacent to High Street, the colonnade and the pedestrian walkway beyond. There are filtered views of the listed building and Silver Street through the arch, as pedestrians move along this walkway. The dwellings have also been designed with first floor balconies and large windows, facilitating views over the verdant elements of the development, either side of the principle office building. This landscape was designed as a setting for the complex as a whole and implemented contemporaneously with it. It is experienced and enjoyed by the residents from their living quarters, as well as by the users of the businesses in the commercial part of the development. I am in no doubt that all the elements were a part of the same integrated design. In any event they clearly have a common origin in their designers and the facilitator and a common history.
18. The commercial element, the surrounding car park and the landscaping are clearly a part of the setting of the listed building. In addition, the pedestrian link from High Street to Silver Street, with its framed view of the arch under the listed building, together with the unifying materials and features of the adjacent building, is clearly a part of the visual experience and appreciation of the listed building and thereby the understanding of its significance.
19. The proposal would demolish most of the commercial development that does not relate to High Street. As a single act this would clearly cause substantial harm to the character and appearance of the conservation area and by removing much of its architectural context, the setting of the listed building. However, this part of Cofferdge Close is not listed and providing the replacement building and its complementary development is to a similar or higher standard, then it would not be harmful to the significant heritage assets.
20. The appeal building is almost square in form but would be built to the same height as its predecessor. Its elevations are to a contemporary design with an extensive use of glass. The brick components could be conditioned to match those on the retained buildings, thereby retaining at least a part of the linkage between the listed Silver Street dwellings and the retained commercial units adjacent to High Street.
21. The length of the existing office block in the direction of Silver Street and its proximity to the listed dwellings unifies the development through the near continuous built form along the pedestrian route between High Street and Silver Street. The south-western elevation of the proposed store would be about 56 metres from the north-eastern elevation of 7-23 Silver Street; the existing buildings are about 20 metres apart. The alignment of the office block draws the eye from the colonnade along its flank and to the arch under the

listed building. The frontage of the retail development and the pavement would be pulled back from the alignment of the colonnade and the office building and the view along the realigned pedestrian way would terminate at a side door into the supermarket, thereby removing the visual link between the retained commercial element and the colonnade with the listed building. In consequence the continuous vista to the listed building would be lost and the relationship between the listed building and the retained element of the original retail scheme compromised. As a result, both the physical proximity of the buildings and the visual experience of the current scheme would be weakened if the appeal proposal were to be implemented. Both of these are important aspects of the setting of the listed building.

22. Furthermore, whilst set back from the colonnade, the store is not set back sufficiently to enable its canopy to be free standing, rather it would project in part over the colonnade. Whether its function is to provide rain or solar shading is not the point. It is a key component of the store's front elevation but visually it part rests on top of the retained colonnade. In doing so it compromises the integrity of the colonnade which, as a result of the set back, has been left as a free standing structure. The overlap also does not assist in demonstrating the independence of the new building.
23. It was agreed that the colonnade enhances local distinctiveness. It is an asset of the conservation area. The Appellants during the application process agreed to retain a greater proportion than was originally proposed. However, only nine of the fifteen bays are retained so that its significance will be reduced and its contribution to the setting of the listed building impaired. I am not persuaded by the appellant's argument that this is necessary to allow adequate natural light into the superstore. There is significantly more glazing in this proposal than is the case at any of the other retail stores that I visited in and around Milton Keynes. The experience within the existing offices on the site, which proportionately have far less glazing than the store would have, is not that of a gloomy environment, when without artificial light. The north-western elevation of the proposed store has an extensive area of opaque glass that could be substituted for translucent glass if the receipt of natural light, in a situation where the colonnade was retained in its entirety, was in fact an issue.
24. Three of the retained bays will have car parking spaces under them so that the colonnade will no longer function as a walkway at that point. Their use by cars, the alteration of the footpath alignment beyond the colonnade and the removal of repeated vertical features that echo the rhythm of the colonnade pillars, alongside the footpath, would destroy the visual experience currently achieved when walking under the colonnade and the footpath beyond, towards the listed buildings. The original function of the colonnade would thus be lost and it would be relegated to the status of an interesting historic feature with no real modern purpose.
25. The new building would fail to relate to the colonnade in any satisfactory way other than through its height and partial use of brick. In addition to the interaction with the canopy discussed above, the bay proportions of the new building do not match those on the retained colonnade. Consequently the canopy supports sit in irregular positions within the colonnade. To say the least, this is architecturally confusing and compromises the simplicity of the original colonnade and the experience of pedestrians who walk through it.

26. Given that paragraph 132 of the Framework points out that significance can be harmed through development within the setting of a heritage asset and that any harm should require clear and convincing justification, it is difficult to understand why the colonnade has been treated in the way that it has.
27. English Heritage and others prefer the retention of a substantial part of the south-eastern elevation of the existing building and its incorporation into a new supermarket. The Appellant contends that this is not feasible because of the reinforced concrete beams that form the structure of the building. Given modern building technologies and the widespread examples of the incorporation of historic frontages into new buildings, in many historic contexts, I am not persuaded that the technical problems are insurmountable. The incorporation of a part of the existing south-eastern façade into the new building would be a better outcome than the proposal before me. Having said that, as the building is not listed, the issue is not whether or not the existing façade should be kept but whether or not what is to replace it would preserve or enhance the character and appearance of the conservation area and preserve the setting of the listed building. In my judgement what is proposed by the appeal scheme would not meet these tests.
28. The existing service area is screened by buildings. The proposal provides a separate service yard for the superstore along its north-western elevation. This protrudes into the area of retained amenity space between the supermarket and the listed building. The proposal involves its screening by a timber fence. The scheme would divert the pedestrian link that currently leads through the development to the Market Place. Its diversion to the west of the store would be less convenient for pedestrians than the existing route. This is a further disadvantage of the proposal.
29. Additionally, pedestrians would have to pass the service yard on this extended journey. At the present time this is a quiet tranquil area and the walk between Cofferridge Close and the Market Place is enjoyable. No doubt high quality timber could be used to screen the service yard and it would be a locally distinctive feature. However, I am not persuaded that it would be attractive. In my experience commercial service yards never are and at times it would be noisy. In this location, without more fundamental screening, it would detract from, rather than enhance, the character and appearance of the conservation area and the setting of the listed building.
30. The proposal involves the reconfiguration and significant reduction of the amenity space to the west of the major office building. This is a well valued local resource so much so that the Council has designated it as an Asset of Community Value. At the present time an objection lodged by the Appellant, who owns the site, has still to be considered. Nevertheless, Policy CS19 seeks to protect such spaces in any event. The extent of the amenity space would be reduced by more than half. Although privately owned this space, with its mature trees, is an asset to the conservation area and is currently a positive characteristic of the setting of the listed building. Its part replacement with car parking and a service yard is not an enhancement and given the vegetative changes discussed below it would be distinctly harmful to the setting of the listed building. As most of the mature forest trees, within the amenity area, are to be retained there is little harm in the reconfiguration itself.

31. Saved LP Policy L2 allows alternative provision of at least equivalent size, quality, suitability and convenience to be made. The Appellant through a financial contribution embedded in the Section 106 Agreement seeks to enhance a proposed community orchard at Mortimer Park, which is nearby. In principle this would be a more than adequate alternative provision from an amenity standpoint but it would not overcome the finite loss to the character and appearance of the conservation area or the setting of the listed building. I discuss the orchards in the context of biodiversity below.
32. At the present time the car parking and circulation areas, as well as the amenity space, are characterised by mature trees. Their canopies extend over much of the open part of the site and give Cofferridge Close a noticeably sylvan appearance. This characteristic is repeated throughout the conservation area, both in public spaces, such as at Horsefair Green and in some of the rear spaces behind the commercial buildings. Blocks of generous planting containing shrubs, as well as mature trees, also abut the south-eastern side of the colonnade and the walkway that extends from it. Although distorted from the original concept by subsequent changes, this mature vegetation nevertheless effectively separates the public parking from the building and pedestrians, giving a distinctively verdant appearance to the walkway. It softens the built development and reinforces its relationship with the wider landscaping. It also provides an attractive environment that is appreciated and enjoyed by visitors to the site.
33. The proposal would remove all of the existing vegetation from the site apart from the trees within the retained area of amenity space and around the site's periphery. Whilst a number of the trees are in need of maintenance and others would benefit from removal and replacement, most would not. The appropriate arboricultural solution would only remove diseased and poor specimens now. Other trees would be incorporated into the layout and removed and replaced over time as they reached maturity, thus maintaining the overall verdant appearance. Whilst I accept that any revised car parking layout would be likely to involve the removal of some sound trees, I am not persuaded that the extent of felling at one time that is proposed is necessary.
34. I note that the Appellant proposes significant amounts of new tree planting. However, only nine would be large trees and many of the specimens would be narrow columnar trees chosen for their ability to enable a maximising of car parking spaces rather than for their ability to create an extensive canopy. They would consequently be unlikely to recreate the same verdant setting for the listed building or to maintain the sylvan character and appearance of this part of the conservation area. Their appearance when they become established will be that of individual trees planted to soften the appearance of a hard surfaced car park. They would not be an adequate replacement for the existing landscape. The removal of the existing trees and their replacement would increase the tree years available to the site but it would also create a harsh alien landscape for a number of years, whilst the trees became established and then grew to maturity. This would be a decidedly negative aspect of the proposal.
35. The proposal makes no attempt to replace the planting adjacent to the colonnade and walkway, which is a distinctive feature of the conservation area. Whilst I understand the need for access and prominence at the store entrance, this does not justify the complete removal of an important characteristic of this

part of the conservation area. Together with the derogation of the wider tree cover, I consider this aspect of the proposal would cause significant harm to both the character and appearance of the conservation area and the setting of the listed building.

36. The setting back of the new building further away from the listed building than its predecessor would enable it to be better seen and admired as a whole from the east. This could be a positive attribute of the scheme. It is regrettable that the vista would be over a wide expanse of car parking and an access road with inferior landscaping.
37. The proposal would reinstate the demolished colonnade to High Street, which would be of benefit to the conservation area. It would also beneficially remove the unsightly canopies. However these were inserted subsequent to the original development for a reason. The proposal does not introduce aesthetically more sympathetic weather protection and on inclement days this would deter visitors to the new store combining their trip with visits to other shops and businesses within the town centre. Linked trips are advanced by the appellants as a benefit of the scheme.
38. Notwithstanding this, the successful operation of the retail store would undoubtedly bring additional footfall to Stony Stratford and with it some improvement to the vitality and viability of the town centre. Viable businesses that are trading well would be more likely to invest in the maintenance and improvement of the historic properties. This would undoubtedly benefit the long term preservation and enhancement of the conservation area. However, for the reasons that I discuss in the retail section below, I can only give this moderate weight.
39. The proposal would not protect and enhance the significant heritage assets found at this site or its green infrastructure and is therefore contrary to CS Policy CS19. It would also adversely affect the setting of the listed building and not preserve the character and appearance of the Stony Stratford Conservation Area. These defects are contrary to saved LP Policies HE5 and HE6 and the statutory requirements referred to above. The latter require me to attach considerable importance and weight to any harm found to heritage assets.
40. Having weighed the above considerations in the balance I conclude that the proposal would be significantly harmful to the heritage assets

Biodiversity

41. Although the Council cited harm to biodiversity in its reasons for refusal it subsequently accepted that there would be no harm to biodiversity. The Rule 6 parties maintained the proposition that the amenity space was a Traditional Orchard (TO) with veteran trees and quoted expert opinion to support its case. Two areas within the amenity land have been identified as TOs within the MAGIC¹ dataset as supporting the UK BAP² Priority Habitat 'Traditional Orchard'. DEFRA has designated TOs as priority habitat. The information was derived from the 'Traditional Orchard Project in England'³, which used aerial

¹ Multi Agency Geographic Information for the Countryside database

² Biodiversity Action Plan

³ Traditional orchard Project in England: The creation of an inventory to support the UK Habitat Action Plan, Natural England Commissioned report Number 077, Burrough et al, 2011

- photographs and maps as a data source. The inventory is classed as provisional and many of the sites, including those affected by the appeal proposal, have not been ground truthed. There is also no conclusive evidence to confirm that the quoted expert opinion was based on site investigations.
42. Within the amenity area there are fourteen fruit trees located either side of the belt of mature forest trees that occupy its central portion. Half of these would be lost to the development; the three to the north-east would be affected by the store and the group of four to the south-west, closet to the listed building, by the proposed car park.
43. The Oxford dictionary defines an 'orchard' as an enclosed piece of land planted with fruit trees. The land is not enclosed. The UK BAP Priority Habitat Descriptions define TO's as 'groups of fruit and nut trees planted on vigorous root stocks at low densities in permanent grassland and managed in a low intensity way'. Natural England in its Technical Information Note⁴ on TOs quotes a stocking density of 100-150 trees per hectare for apples and 25-125 for pears. The average density of over 170 trees per hectare, in the remnant orchards at the appeal site, is well above the maximum for both species. Consequently, their planting cannot be considered to be low density. The trees themselves are not regularly managed as fruit trees and there is evidence of heavy crown reduction and lower limb removal. The management regime also keeps the appeal site tidy, removing fallen branches and other tree debris, the very material that attracts and maintains wildlife in TO's. It also ensures that the grass is frequently mowed and kept short. The Technical Information Note says that the permanent grass sward is usually grazed by animals or cut for hay. These considerations suggest to me that the fruit trees within the amenity area probably do not constitute TOs.
44. Although a 1925 Ordnance Survey extract clearly shows the sites of the three trees in the north-eastern part of the amenity land as being within a larger area of land extending towards High Street that contained fruit trees and that same curtilage existed in 1881, by 1972 the land containing at least one of the three trees affected by the appeal proposal was being used as a tennis court. The three trees are of a similar height and stature. None of them are large or exhibit characteristics of longevity. The Appellant's contention that they were planted as a part of the landscaping element of the Cofferridge Close scheme or subsequently is probably correct. They are unlikely to be veteran trees.
45. The Framework defines aged or veteran trees as trees that because of their great age, size or condition are exceptional for wildlife, in the landscape or culturally. None of these trees are of a great size, even for fruit trees and they do not in my view make an exceptional contribution to the Cofferridge Close landscape. I have already established that the group of three in the north-eastern part of the amenity space are likely not to predate the redevelopment. There was not an orchard identified on the 1925 Ordnance Survey on that part of the site occupied by the four trees affected by the car park. The 1928 aerial photograph verifies this.
46. The position with regard to the seven central trees is less clear. Trees are identified within a part of a narrow garden behind a house on Horsefair Green on ordnance survey maps at various times since 1881. The 1928 aerial

⁴ Natural England, technical Information Note TIN014, Traditional Orchards: planting and establishing fruit trees, 2007

photograph also verifies this. A number of these must have been some of the forest trees now found on the site. Whether historically there were fruit trees within this garden is not clear. Four of the fruit trees now found in this area are clearly much younger than the other three. One of the latter has visible signs of trunk hollowing. However, the Appellant's analysis using the Forestry Commissions method of age estimation⁵ dates the three older fruit trees in the central part of the site as early 1940's. No empirical evidence was produced to refute this. I therefore find that it is unlikely that any of the three groups of trees now constitute a traditional orchard or contain veteran trees.

47. Additionally as these designations are applied primarily to protect biodiversity, one would expect to find concentrations of appropriate species, possibly including ones that are under threat. There is no evidence to suggest that that is the case here or that there would be significant harm to biodiversity as a result of the proposal. Whether or not the fruit trees within the amenity area are TOs and contain veteran trees is immaterial, the ecological value of this site is low and the harm to biodiversity consequently attracts minimal weight.
48. To compensate for any loss, the Appellant has proposed a number of measures to improve the site's ecology. Whilst I am not convinced that a site with a busy car park and limited foraging areas is appropriate for hedgehog nesting domes, bat roost boxes, bird boxes, loggeries for invertebrates and the planting of priority habitat hedgerow along appropriate boundaries would all contribute to the improvement of the biodiversity of this site. The improvements that the Appellant could contribute to at Mortimer Park could also have ecological benefits. The proposal therefore meets the requirements of saved LP Policy NE3.
49. However, whilst I agree that offsite measures to compensate for the loss of amenity land and to enhance biodiversity are appropriate, as there is no substantiated evidence to confirm that the seven fruit trees to be lost from the amenity land constitute parts of TO's, there is no justification for the contributions to specifically provide that facility at Mortimer Park.

Over development

50. The Council's first reason for refusing the application says that the proposal constitutes over development. A casual appreciation of the above analysis suggests that the Council's conclusion is supported by it and that the store is too large to enable it and its car parking provision to be satisfactorily accommodated on the site.
51. However, the ground floor footprint of the buildings is only 5% greater than the existing. The overall area devoted to servicing is little different and the number of parking spaces has been increased by 2. Yet there is a significant reduction in the area of amenity space, a total loss of the shrub planting adjacent to the colonnade/walkway, deterioration in the extent and quality of the tree planting and even the need to park cars under the colonnade. The area lost from amenity and landscaping has in effect been largely swallowed up by a larger car park, including its circulation space.
52. The Appellant suggests that the current informal car parking arrangements are unsatisfactory but usually the formalisation of car parking arrangements

⁵ Forestry Commission , Estimating the Age of Large and Veteran trees in Britain 1998

increases their intensity, not the reverse. It seems to me that the concerns are as much, if not more, to do with the revised layout of the car park and in particular a noticeably increased provision of circulation space, than the size of the store. However, whatever the reason, the proposed layout would damage the site and would not relate well to and enhance the local environment. It would also not reinforce the better quality and locally distinctive design elements or create a quality public realm. It does not therefore accord with saved LP policies D1, D2 and D2A.

The living conditions at nearby properties

53. The listed building has been designed with living accommodation at first floor level. The dwellings have large rear windows and balconies that look onto Cofferidge Close. At the present time their aspect is of a car park set in a mature landscape, the amenity space and the end wall of the nearby office building. The views are through the canopies of trees. The scheme would significantly increase the extent of the car parking and circulation areas to the rear of the north-eastern part of the building and to a lesser extent to the rear of the south-western element. The views from the balconies would inevitably deteriorate following the implementation of the proposed felling. Even the view from the two dwellings facing the office wall would not improve as the wall is covered in cordoned pears, which along with a mature ash tree subtly filter the views of the brickwork. However, a right to a view does not exist in planning law and I am satisfied that the visual impact of this development, on the dwellings' rear aspect, would not be to an extent that resulted in material harm to their living conditions.
54. Nevertheless, there would be increased comings and goings as a result of the proposal, both through the increased number of vehicles wishing to park close to the dwellings and an increase in the number of service vehicles visiting the site and using the relocated access road. The new supermarket would also be likely to be open later in the evening than the existing one and certainly it would attract a much higher foot-fall. Whilst there would be fewer parking spaces in the north-western part of the site, the new layout would position more of them closer to the dwellings and they would be more frequently used.
55. This would inevitably result in increased noise and disturbance, which would be compounded by the activities in the service yard. The proposal would locate the access road further from the dwellings than the current position. However, at the present time the rear fence tends to check some of the noise in proximity to it. As a result, locating the access road further away from the dwellings could increase the levels of noise received from it on the first floor balconies and in the adjoining living rooms. This would be harmful to their living conditions. Whilst I accept that persons living in a town centre environment must expect some noise and disturbance as a result of town centre activities, Paragraph 56 of the Framework says that good design is a key aspect of sustainable development and should contribute positively to making places better for people. In its current form this development would not achieve this for the residents of 7-23 Silver Street. On balance the proposal would be moderately harmful to the living conditions at the listed dwellings

Highway safety and the free flow of traffic

56. Although the number of service vehicles is likely to more than double, there would be the opportunity to require the production of a service delivery management plan and this could be conditioned if planning permission was given. This plan could control the hours during which deliveries took place and the routes taken to access and egress the site. There are no such restrictions at the present time. A travel plan could also be secured by condition, through which employees could be encouraged to travel to work by means other than the private car and if they were unable to use other modes, to park their cars in the long stay car parks. Overall, despite the significant increase in the number of delivery vehicles, the future situation would be likely to be an improvement on the present and weighs in favour of the proposal.
57. The introduction of a construction management plan could facilitate the provision of public car parking spaces on the site during the demolition and construction phases. The Appellant estimated that about 90 could be made available.
58. There is already periodic congestion, particularly at peak times along Silver Street close to the site. I observed this on a number of occasions, including at the accompanied site visit. This results from parked cars outside Nos. 23-39, for a distance of about 50 metres and a consequent inability for two vehicles to pass adjacent to them. The Appellant estimates that afternoon peak hour movements from the appeal site, onto this stretch of road, would increase by about 180. This will inevitably lead to more congestion. Whether it would be serious or not is not known, as there has been no empirical analysis of the situation. In not asking for a report on the matter, the highway authority must bear some responsibility for this. Congestion could clearly be avoided if the on-street parking spaces were to be removed. However, in the absence of the provision of alternative parking, for the affected residents, it is likely that there would be objections from them. Such a situation would not be a satisfactory outcome. Paragraph 32 of the Framework says that development should only be refused on transport grounds where the residual cumulative impacts of development are severe. That is unlikely to be the case at Silver Street. Nevertheless, the uncertainty weighs against the proposal.
59. The scheme would convert the 63 long stay car parking spaces on the site to short stay. However, the evidence suggests that a significant proportion of the drivers using these spaces (44%)⁶ actually parked in them for less than 2 Hours. These drivers would not be displaced by the introduction of a 2 hour limit on car parking. The Appellant's analysis of the use of the other town centre car parks suggests that there are more than 40 spaces available in the other car parks, excluding Ostlers Lane, at all times of the day and over 100 if it is included⁷. I am therefore not persuaded that the displacement of the long stay car parking spaces from Cofferridge Close would result in highway problems elsewhere in the town. On balance there would be minor harm to highway safety and the free flow of traffic.

⁶ Parking Survey undertaken by 360 TSL for WSP UK Ltd on Wednesday 18 September 2013.

⁷ Table 7.4 of Mr A Blacker's proof of evidence.

Retail issues

60. In section 2 the Framework seeks to promote competitive town centre environments that provide for customer choice and a diverse retail offer, which reflects the individuality of town centres. The CS and LP seek to achieve these objectives in their retail policies. Policy CS4 maintains the previously established hierarchy of centres, which has four tiers. Central Milton Keynes is defined as a regional shopping centre for comparison shopping. District shopping centres, including two in former towns that are now a part of the new town, are meant to cater for weekly convenience shopping needs, whilst town centres are expected to function as local shopping destinations. Below them are local and village centres. Given their place in the hierarchy, the functions of the historic town centres within this new town are clearly not intended to be the same as those in the centres of traditional towns. Their functionality is more akin to that to be found in local or specialist centres elsewhere rather than traditional town centres.
61. Because of its historic context, Stony Stratford has been deliberately defined as a town centre in this new town context. Saved policy TC3 specifically deals with Stony Stratford and says that it is a Town Centre meeting the daily shopping needs of the local population. In defining the policy objective, the supporting text specifically says that the centre's historic character makes it unrealistic to plan for much retail development in the town. Where it is proposed it should enhance the character and appearance of the conservation area. Policy CS4 goes on to say that it will primarily function as a local shopping destination in recognition of the constraints placed on development by conservation and allied considerations. This approach is supported by the Framework's reference to the need to reflect the individuality of town centres in paragraph 23. Additionally, Policy CS4 clearly expects nearby Wolverton to cater for the weekly convenience shopping needs of this part of Milton Keynes.
62. The town centre has a good quality environment that builds upon its historic attributes. Pedestrian flows along the High Street and into Cofferridge Close during the 8 days that the Inquiry sat were good for a centre of its size and it has a weekly market and monthly farmers market that provide a non conventional retail experience and act as an additional customer draw. It also has good convenient off-street car parking which, although well used, was not at capacity during the course of the Inquiry. However, although it has two small supermarkets, the proportion of convenience units and the floorspace that they occupy in Stony Stratford is below what one would expect in a local centre serving a primary catchment as large as Stony Stratford's. Nevertheless, despite its poor convenience offer it has a good mix of quality independent comparison shops and services and compared to elsewhere, the vacancy rate is very low. Stony Stratford Town Centre is clearly a vital and viable centre.
63. It is common ground that in order to improve customer choice and to maintain and enhance the vitality and viability of the Town Centre its convenience retail offer needs to be improved. Neither supermarket is of a sufficient size to enable it to contemplate stocking a full range of convenience goods, let alone the wide variety of brands and extensive range of fresh produce now stocked in large superstores, a number of which are located within an easy drive of Stony Stratford. In this context it is not surprising that less than 1% of the population of the town use the centre for their main food shopping. More

surprising is the fact that only about 37% use it for top up shopping, given the easy accessibility of the centre to most residents of the parish. This suggests that even the top up convenience offer is not all that it could be. Other things being equal there is a clear justification for additional convenience retail floorspace within Stony Stratford Town Centre. On this the parties are agreed. It is only the size of the proposed expansion that they disagree about.

64. The inability of the local supermarkets to attract a majority of the catchment's customers and thereby support other convenience specialist shops has enabled niche market specialist comparison shops, restaurants and other services to occupy floorspace in Stony Stratford. Aided by the historic townscape and the large new town population, thriving businesses have been established in these sectors. Furthermore, the Appellant's town centre survey suggests that only about 40% of persons using the centre are local, the majority being visitors, many of them no doubt attracted by the unique historic environment that Stony Stratford offers in contrast to much of the remainder of Milton Keynes.
65. More than 90% of the units and nearly that proportion of the floorspace in the town centre are/is occupied by service and comparison businesses. Whilst it is likely that most of them would benefit from the increased footfall a larger supermarket would bring I am not convinced that their future viability is dependent upon it. Milton Keynes' population is still growing fast. The new western expansion area is just down the road from Stony Stratford and when that is built out there will no doubt be other expansion areas providing an even larger casual visitor catchment for Stony Stratford.
66. The existing supermarket within Cofferridge Close occupies 925 m². The Appellant's proposal would develop a store with a gross floorspace of 2515 m² i.e. 172% larger. Whilst a store of this size could not offer the range of products sold in the much larger stores in the area and in particular would probably have a much smaller comparison offer, it is nevertheless a larger floorspace than is necessary to provide an effective top up store. Many of its customers would be likely to be undertaking their main food shopping trips there. As an alternative the Rule 6 parties suggested a reorganisation of the existing store to increase the sales area by about 20%. They also put forward the option of a larger extension that incorporated the offices to its rear into the supermarket. In their opinion that is all that is needed to effectively fulfil the top-up requirement. In principle the Council is not averse to a larger redevelopment and I consider this to be the correct approach.
67. The Appellant points to the poor performance of the existing supermarket within Cofferridge Close as a justification for its expansion. A larger store could sell a wider range of products and would thus be better placed to compete. It refers to the threats from proposals elsewhere, particularly the expansion of Tesco at Wolverton. Whether the Tesco expansion will happen is a moot point but there is no disagreement that there will be an expansion in convenience retail facilities at large stores within the vicinity of Stony Stratford.
68. However, Stony Stratford is not in direct competition with these stores, whose principle market is household main food shopping. There will undoubtedly be some impact but given that there are already few main food shopping trips to Stony Stratford, that the proportion of convenience expenditure spent on top up shopping is increasing, that further development is proposed at Stony Stratford, resulting in a higher population generating higher levels of local

expenditure, that over 40% of the town's residents walk when undertaking top-up food shopping, that the centre is convenient for a large population when they are in urgent need of foodstuffs and a significant proportion, of the convenience retail turnover at Stony Stratford, is likely to be generated from expenditure by visitors I am not convinced that this would be a threat to the centre's overall vitality and viability or even that of the two supermarkets if effectively managed.

69. The markets and the independent convenience retailers tend to provide a different and specialist offer to the supermarkets and superstores and are already unlikely to be dependent on the existence of the town centre supermarkets for much of their customer base. Whilst the absence of a quality supermarket, able to offer a full range of convenience goods, is a deficiency, in the circumstances of Stony Stratford I am not convinced that an expansion in floorspace to the extent proposed by the Appellant is necessary to maintain and enhance the vitality and viability of the town centre.
70. The Framework and the Development Plan seek to combat climate change by encouraging shorter journeys by private vehicles and reducing the reliance on the car, particularly for urban journeys. Less than 20% of the convenience retail expenditure generated within Stony Stratford is currently spent there and a large majority of households use the private car to make convenience shopping trips to other centres. A larger food store at Cofferridge Close would undoubtedly claw some of this lost turnover back and in the process reduce the average journey to shop made by local residents. This would be a sustainable outcome.
71. About two thirds of top up shopping and nearly all of the main food shopping undertaken by Stony Stratford residents is undertaken outside of the town. However more than half of the latter is undertaken at Wolverton, primarily at the Tesco. This is about 2 miles from Stony Stratford Town Centre and even closer to much of the town's population. Most other expenditure is made at other centres within Milton Keynes and these journeys to shop are not excessive in the context of such journeys in urban Britain. Nevertheless, about 10% of households make unsustainable trips to Towcester, which is about 9 miles away to the north. Others visit Buckingham, a similar distance to the west. The proposal would undoubtedly enable local residents to more sustainably meet their convenience shopping requirements. It would also improve customer choice. The ability of an enlarged supermarket within Stony Stratford Town Centre to fulfil these policy objectives weighs in favour of the appeal proposal.
72. Shopping in the town centre can be undertaken by a choice of means of transport. 5 main bus routes with frequent services stop about 200 metres from Cofferridge Close. However, these same bus routes also go to Wolverton and the bus stops there are even closer to the convenience stores. Only about 1% of the convenience shopping trips made by Stony Stratford's households appear to be made by public transport so the ability to use it when shopping at an enlarged town centre supermarket can only attract minimal weight.
73. Evidence from studies at Beverley, Neston and elsewhere suggests that in circumstances where moderately sized supermarkets/superstores are introduced into town centres, other nearby shops benefit from the increased available footfall. Even at Towcester where the Waitrose store is some

distance from the traditional shops, some customers of the superstore make linked trips with the high street and there are clearly successful independent specialist convenience retailers there. Consequently I do not consider that the appeal proposal would be harmful to the existing specialist convenience retailers within Stony Stratford Town Centre and it need not preclude the establishment of successful other such businesses.

74. The proposal would create about 54 additional jobs. This weighs in the proposal's favour. However, there is no evidence that the overall vitality and viability of the town is in jeopardy or that without the appeal proposal they would spiral into a downward decline. A larger supermarket would undoubtedly be of benefit to the town, it would improve customer choice and it has good sustainability attributes. However there is not an overwhelming case for an enlarged store as big as the appeal proposal. The weight given to the benefits of the proposal to consumer choice, sustainability and the vitality and viability of Stony Stratford Town Centre can therefore be no more than moderate.

Reuse of existing buildings

75. The rule 6 party introduced a scheme that made a small extension to the existing supermarket sales area and refurbished the offices. As well as organising an appearance by the proprietors of the existing supermarket, they also introduced evidence and produced other witnesses to demonstrate that there would be interest from local businesses in occupying a refurbished Cofferridge Close. Whether such an option would be financially viable was not demonstrated.
76. The Appellant produced evidence in the form of a letter from Louch Shacklock and Partners, commercial letting agents, purporting to demonstrate that the property had been extensively marketed. Other evidence suggesting that the accommodation was now antiquated and could not be improved to meet modern technical needs was also presented.
77. However, there is no factual evidence to demonstrate that the vacant offices have been effectively marketed for a sustained period of time. The occupation of parts of the offices by two companies, one of which is directly involved in the information technology industry, suggests that the accommodation is capable of being improved to meet modern requirements. There are clearly also potential users for the vacant floorspace, although whether or not these businesses would be capable of meeting market rents if they occupied the accommodation was not demonstrated.
78. It is not the purpose of this appeal to evaluate the alternative proposal or appropriate for me to speculate whether or not it would be a better outcome than the proposal before me. The evidence does however raise serious questions about the alleged obsolescence of the existing complex and suggests that I should give no weight to the need or otherwise to redevelop part the commercial element of Cofferridge close in the short term.

Other considerations

79. I note that the Town Council and others are preparing a neighbourhood plan for Stony Stratford. Whilst not wishing to take away its local importance, I note that this plan is only at the draft stage and has not been through its

formal stages of consultation. Its existence cannot therefore attract more than minimal weight.

80. The Localism Act 2011 gives communities the power to plan for their own areas, but with this power comes the responsibility to plan and positively seek opportunities to meet the development needs of their areas. In the context of this appeal there is a clear requirement for a larger supermarket within Stony Stratford Town Centre. Whilst I note the high level of public opposition to this proposal, in such circumstances localism, although a material consideration, can not be the determining factor.

Planning balance and overall conclusion

81. I have found that the proposal would be harmful to the character and appearance of the Stony Stratford Conservation Area and the setting of the Listed Building at Nos. 7-23 Silver Street. It is therefore contrary to CS Policy CS19 and saved LP Policies HE5 and HE6. Sections 66 and 72(1) of the Act require that I attach considerable weight and importance to any harm found to a heritage asset. Notwithstanding the acknowledged benefits of the proposal to the heritage assets, I nevertheless consider the overall harm to the significance of the heritage assets would be at least significant.
82. There would also be harm to the living conditions at 7-23 Silver Street and could be harm to local highway considerations. Although insufficient on their own to refuse planning permission, these other considerations also weigh against the proposal. Paragraph 134 of the Framework says that where a development proposal will lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
83. In the circumstances of Stony Stratford Town Centre, I consider the public benefits of the scheme to the securing of a vital and viable town centre, increased customer choice and reducing unsustainable journeys to shop, as well as all of the other benefits acknowledged, amount to no more than moderate weight. I therefore find for the reasons discussed above and having taken account of all of the other matters raised, including the representations from local residents, both verbally at the Inquiry and in correspondence, that the appeal should be dismissed.

M Middleton

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Philippa Jackson of Counsel	Instructed by Milton Keynes Council
She called	
Richard Sakyi BA, DipUP, MRTPI	Milton Keynes Council
Simon Peart BA, DipCon, MRTPI, MIHBC	Milton Keynes Council

FOR THE APPELLANT:

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Nicholas Collins	Barton Willmore
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Alistair Baxter BA, MA, MSc, CEnv, MCIEEM	Aspect Ecology
Kim Cohen BSC, MCD, MRTPI	Barton Willmore

FOR STONY STRATFORD TOWN COUNCIL / NEW SAVE COFFERIDGE CLOSE GROUP

Jack Smythe of Counsel	Instructed by Stony Stratford Town Council
He called	
Robert Gifford	Stony Stratford Town Council
Michael O'Sullivan	Local resident
Robert de Grey	Local resident
Marcus Roberts BA, DipTh, MStud, PGCE, Cert Heritage	Oxford Heritage Projects
Simon Parfitt BA, MSc	David Tucker Associates

OTHER INTERESTED PERSONS:

Sandra Morris	Local resident
Andy Bacon	Resident of Silver Street
Philip Sarre	Local resident
Tony Kaye	Local resident
Anna La Belle	Prospective town centre retailer
Iain Stewart MP	Local MP
Judy Deveson	Chair of Stony Stratford in Bloom
Matthew Lane	Local retailer
Tim Shelton	Milton Keynes Forum
Allan Knall	D W Roberts Opticians
Ross Dilmot	Stony Stratford Community Church

Zoë Rowen
Bryan Bardell
Steve Franklin
Kash Jaffar
Michael Saward

Acorn Child Care
Musgrave GB
Budgen Stores
Stony Stratford Stores
Owners of 7- 13 and 23 Silver Street

DOCUMENTS SUBMITTED TO THE INQUIRY

- 1 Statement from Andy Bacon
- 2 Statement from Dr P Sarre
- 3 Statement from Anthony Kaye
- 4 Statement from Judy Deveson
- 5 Statement from Tim Skelton
- 6 Statement from Allan Nall
- 7 Statement from Ross Dilnot
- 8 Statement from Owners of 7-13 and 23 Silver Street
- 9 Statement from Dr Amit Goyal
- 10 Assessment of Conformity between Milton Keynes Local Plan (2005) and Minerals Local Plan (2006) and the National Planning Policy Framework (2012), submitted by the Council
- 11 Stony Stratford Neighbourhood Plan, Questionnaire, submitted by Stony Stratford Town Council
- 12 Stony Stratford Neighbourhood Plan, Issues Consultation Response analysis, submitted by Stony Stratford Town Council
- 13 Action for Market Towns Benchmarking and Stony Stratford Business Association Business Confidence Survey, submitted by the Appellant
- 14 Tesco News Release re Store at Wolverton, 6 November 2013, submitted by the Council
- 15 Milton Keynes Council, Committee Report on S73 application to vary a condition and allow an increase in the permitted total retail floorspace within the Western Expansion Area (November 2011), submitted by the Appellant
- 16 Email correspondence between Bryan Bardell and Peter Ward of Musgrave Retail Partners GB and Helen Palgrave and Paul Winteringham of CBRE concerning lease on Unit 5, Cofferridge Close, Stony Stratford, submitted by Bryan Bardell
- 17 Appeal decision re: APP/Z1510/A/12/2171723, Former Fleetshields Site, 66 East Street, Coggeshall, Essex, submitted by the Council
- 18 Email correspondence between Clive Patmore of WSP Group and Richard Duffill of Milton Keynes Highways, concerning traffic management measures on Silver Street, Stony Stratford, submitted by the Council
- 19 Email correspondence between Andy Swannell and Richard Sakyi, concerning traffic management measures on Silver Street
- 20 Milton Keynes Council, Committee Report on the nomination of Cofferridge Close, Stony Stratford, as an Asset of Community Value under the Community Right to Bid, by Stony Stratford Town Council, submitted by Stony Stratford Town Council
- 21 Public responses supporting Cofferridge Close Orchard, submitted by Stony Stratford Town Council
- 22 Email correspondence between Marcus Roberts and Chris Wedge of Natural England, re Cofferridge Close Orchard, submitted by Stony Stratford Town Council
- 23 Natural England, Technical Information Note TIN017, Traditional Orchards: maintenance pruning, submitted by the Appellant

- 24 Agreed Site Visit Itinerary
- 25 Schedule of Conditions , indicating disagreements
- 26 Signed Section 106 Agreement

PLANS SUBMITTED TO THE INQUIRY

- A Proposed New Service Road Access, designed by Barton Willmore, Submitted by Allan Nall
- B Indication of additional floorspace at Unit 5 Cofferridge Close that could be created from within back of house area, submitted by Bryan Bardell
- C Layout and elevation of new foodstore development, East Street, Coggeshall, submitted by the Council

PHOTOGRAPHS SUBMITTED TO THE INQUIRY

- 1 4 Photographs of flooding at Ostlers Lane Car Park, submitted by Allan Nall
- 2 2 photographs concerning the implications of Saturday morning football training at Ostlers Lane, submitted by Allan Nall
- 3 1 photograph of a narrow footway on Silver Street, submitted by Allan Nall