

# Appeal Decision

Site visit made on 28 September 2016

**by K E Down MA (Oxon) MSc MRTPI MSB**

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

**Decision date: 10 October 2016**

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**Appeal Ref: APP/J0405/W/16/3154718**

**Beechwood Cottage, Beechwood Lane, Wendover, HP22 6JB**

- 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 Mr & Mrs L Erlandsen against the decision of Aylesbury Vale District Council.
  - The application Ref 16/00779/APP, dated 25 February 2016, was refused by notice dated 26 April 2016.
  - The development proposed is erection of a detached dwelling.
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## Decision

1. The appeal is allowed and planning permission is granted for erection of a detached dwelling at Beechwood Cottage, Beechwood Lane, Wendover, HP22 6JB in accordance with the terms of the application, Ref 16/00779/APP, dated 25 February 2016, subject to the following conditions:
    - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
    - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Dwg Nos 2015/991/1 Rev B, 2015/991/2 Rev C, 2015/991/3 and 2015/991/4.
    - 3) No development shall take place until details of the proposed slab levels of the building hereby permitted in relation to the existing and proposed ground levels of the site and the surrounding land have been submitted to and approved in writing by the local planning authority. The building shall be constructed in accordance with the approved levels.
    - 4) No development shall take place until an assessment of the hydrological and hydrogeological context of the development and a drainage scheme, incorporating sustainable drainage principles, have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details and before the building is occupied.
    - 5) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: 2012:
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Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved.

[In this condition "retained tree", unless otherwise agreed in writing by the local planning authority, means an existing tree or hedge which is identified on approved plan ref 2015/991/1 Rev B.]

- 6) No development shall take place above damp proof course level until details of the timber boarding, the render (including colour) and the roof slates to be use on the external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 7) The development hereby permitted shall not be occupied until details of off-site highway works on Beechwood Lane have been submitted to and approved in writing by the local planning authority and the works have been laid out and constructed in accordance with the approved details. For the avoidance of doubt, these shall include the provision of two passing bays, 3m x 6m in dimension.
- 8) The development hereby permitted shall not be occupied until details of the materials proposed to be used on the surface of the driveway have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 9) The development hereby permitted shall not be occupied until details of screen and boundary walls, fences and other means of enclosure have been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details.

## **Main Issues**

2. There are three main issues. Firstly, whether the proposed dwelling would amount to an isolated dwelling in the countryside that would relate poorly to the settlement of Wendover; secondly, whether the proposed dwelling would respect the intrinsic character and beauty of the countryside and in particular conserve the landscape and scenic beauty of the Chilterns Area of Outstanding Natural Beauty, and thirdly, whether the proposed development would compromise highway safety on Beechwood Lane.

## **Reasons**

### *Location*

3. The appeal site is reached via Beechwood Lane, a single track road accessed from a large housing estate. It marks the boundary between Wendover, one of five larger settlements in the district, and the open countryside. The site lies at the end of the lane within the generous garden of Beechwood Cottage, a large, detached 1.5 storey dwelling which is located on the south east side of Wendover. The existing dwelling and its garden are secluded, being surrounded by a substantial hedge and mature planting within the garden. Nevertheless, the appeal site is a short distance from the closest built up area of Wendover, the Tedder Road estate, and separated only by a modest recreation ground and

the existing dwelling. The topography slopes upwards from Tedder Road, across the site and continues to rise steeply to the south towards the Chiltern Hills.

4. The land to the south of the appeal site is heavily wooded and lies within the Chilterns Area of Outstanding Natural Beauty (AONB). The edge of the AONB is marked by a well used track which runs between the appeal site and the woodland, and a path which runs alongside the south west boundary of the appeal site to connect with Beechwood Lane.
5. The proposed dwelling would be of contemporary design and would be finished in a combination of render and timber cladding with a slate roof. The large over-sailing roof at the eaves, the shallow roof pitch and the long roof slope facing towards Beechwood Cottage would give it an Alpine character. The dwelling would be set into the sloping ground so that when seen from the south most of the garage and over half the ground floor would be below the level of the track.
6. The Council considers that the appeal site lies outside the settlement of Wendover and I agree that it is not within the main built up area. Nevertheless, it lies within the garden of and adjacent to an existing dwelling and within a short distance of other established dwellings. In terms of accessibility, it is within walking distance of shops and services, including a bus stop, on Tring Road and as close to these amenities as other nearby dwellings. The centre of Wendover is about 1 km distant and the mainline station a little further. Notwithstanding its edge of settlement location, given the proximity of the appeal site to the main built up area of Wendover, other dwellings and shops, services and transport links, I disagree with the Council that the proposed dwelling would be an isolated dwelling in the countryside in the context of paragraph 55 of the National Planning Policy Framework (NPPF).
7. It is concluded on the first main issue that the proposed dwelling would not amount to an isolated dwelling in the countryside and would have a satisfactory relationship with the settlement of Wendover.

*Effect on character and appearance, including on the AONB*

8. Turning to the effect on the character and appearance of the area, despite its proximity to Wendover, the site has a rural and secluded setting. It lies adjacent to the AONB which has the highest status of protection in relation to landscape and scenic beauty and great weight should be given to conserving this.
9. Owing to the steeply sloping topography and significant vegetation on the boundaries of the site and to the south the site would be no more than glimpsed in long views either from inside or outside the AONB. From Beechwood Lane it would be largely screened by boundary vegetation. Moreover, its position on the site and set down into the sloping ground would avoid material intrusion into views of the woodland and AONB. It would be most apparent from the track between the site and the wooded slopes to the south and from the path joining this track with Beechwood Lane. From here it would be seen at close quarters. It would be a large dwelling and would be clearly visible.
10. Nevertheless, the set down into the sloping ground would reduce the perceived height and bulk of the building, ensuring that whilst seen its effect would be localised and it would not be unduly dominant when viewed from the track or

path. Existing outlook from these public rights of way is limited, by the topography and dense vegetation, to close views of the garden of Beechwood Cottage and the cottage itself. Whilst these would change, with the introduction of built development closer to the track and path, the presence of the proposed dwelling would not interfere with the intrinsic landscape or scenic beauty of the area which is characterised by woodland, and in particular the wooded slopes to the south. Moreover, the elegant architecture and use of natural materials, including timber boarding, would ensure it was aesthetically sympathetic to and well integrated with its woodland setting.

11. The Council draws my attention to other appeal decisions in which Policy GP 35 of the Aylesbury Vale District Local Plan (LP), 2004, has been found to be consistent with the NPPF. I would agree with that finding. However, those appeals related to development significantly different from that now proposed and I do not find these other cases readily comparable with the appeal before me.
12. It is concluded on the second main issue that the proposed dwelling would respect the intrinsic character and beauty of the countryside and in particular conserve the landscape and scenic beauty of the Chilterns AONB. In consequence there would be no conflict with paragraphs 17 and 115 of the NPPF or with LP Policy GP 35 which expects the design of new development proposals to respect and complement, amongst other things, the physical characteristics of the site and its surroundings, the natural qualities and features of the area and the effect on important public views.

#### *Highway safety*

13. Beechwood Lane is a public highway but also a well used public bridleway which provides access to the network of tracks and paths within the AONB. It is single track with no passing places. Buckinghamshire County Council, as Highways and Rights of Way Authority, has confirmed that the provision of two passing places on Beechwood Lane would overcome their initial objection based on highway safety grounds. The appellants have expressed their willingness to provide such passing places. The Council confirms in its evidence that, subject to a condition requiring the provision of two passing places in order to ensure the safe passage of vehicles, horses and pedestrians, the reason for refusal on highway safety grounds would be overcome. I agree that would be the case.
14. It is concluded on the third main issue that, subject to the provision of two passing places on Beechwood Lane which can be required by condition, the proposed development would have no materially harmful effect on highway safety on Beechwood Lane. It would therefore comply with the NPPF in this respect.

#### *Planning balance*

15. The Council is unable to show a five year housing land supply. This means that policies affecting housing supply are considered to be out of date. In accordance with Paragraph 14 of the NPPF the development should therefore be permitted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or specific policies in the Framework indicate development should be restricted.

16. The provision of even one additional house carries significant weight in favour of the development. That must be weighed against, in this case, any harm arising from that dwelling being in an edge of settlement location and a rural setting, adjacent to the AONB. As reasoned above I have found no materially adverse effect on the character and appearance of the area and in particular the intrinsic character and beauty of the countryside or the landscape and scenic beauty of the Chilterns AONB. Further, I have found no material harm would arise from the location and setting of the proposed dwelling, and potential harm to highway safety could be overcome through the imposition of a planning condition. In consequence, there would be no materially adverse effects of the development to significantly and demonstrably outweigh the benefits. Neither would any specific policies in the NPPF or any other material considerations indicate that the development should be resisted. The proposal therefore amounts to sustainable development in the context of paragraph 14 of the NPPF and the appeal should succeed.

### **Conditions and conclusions**

17. In addition to the statutory commencement condition and the highway improvement condition reasoned above, the Council suggests a number of other conditions which I have considered in the context of national policy and guidance. Where necessary I have adjusted the wording to better reflect that guidance. I agree that slab levels should be agreed prior to the commencement of development in order to protect the character and appearance of the area. Likewise, details of materials to be used in the external surfaces of the dwelling and the driveway and details of walls fences and other means of enclosure should be submitted and agreed. In order to protect trees at the appeal site a tree protection plan is necessary to ensure they are not damaged during the construction operations. Finally, I agree that a condition requiring a drainage scheme is necessary to ensure that the development is adequately drained. This should be a pre-commencement condition because it may be difficult to install a suitable drainage scheme once the building has been constructed. In addition to the suggested conditions, in order to provide certainty, a condition is necessary requiring the development to be carried out in accordance with the approved plans.
18. In addition to the suggested conditions, the Council Ecologist suggests that the development should be designed to enhance biodiversity and this would be best achieved through the provision of space behind the proposed timber boarding to provide a roost site for bats. Whilst this would provide welcome enhancement, I have no evidence that bats are present at the site and the Ecologist confirms that in any case bats are unlikely to be affected by the proposals. A condition requiring the roost site would not therefore meet the tests for conditions set out in the NPPF.
19. For the reasons set out above and having regard to all other matters raised, including evidence debating whether or not the appeal site comprises previously developed land and the lack of objection from Wendover Parish Council, I conclude that the appeal should be allowed.

*KE Down*  
INSPECTOR