
Appeal Decision

Site visit made on 27 September 2016

by Richard Aston BSc (Hons) DipTP MRTPI

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

Decision date: 24th October 2016

Appeal Ref: APP/J0405/W/16/3147080

Land off William Hill Drive, Bierton, Aylesbury, Buckinghamshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr David Holmes (Shanly Homes) against Aylesbury Vale District Council.
 - The application Ref 15/03541/AOP, is dated 16 October 2016.
 - The development proposed is described as '*outline planning application with access to be considered and all other matters reserved for residential development of 25 dwellings including vehicular access, car parking, landscaping, drainage and associated works*'.
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Decision

1. The appeal is dismissed and planning permission is refused for development described as '*outline planning application with access to be considered and all other matters reserved for residential development of 25 dwellings including vehicular access, car parking, landscaping, drainage and associated works*' at Land off William Hill Drive, Bierton, Aylesbury, Buckinghamshire.

Procedural Matters

2. The application was submitted in outline form and the application form makes it clear that all matters are reserved for future consideration apart from 'Access'. Although the plan is not marked as 'indicative' or 'illustrative', because all matters other than 'Access' are reserved for future consideration I have dealt with the appeal on the basis that the plan is indicative.
3. The appeal results from the Council's failure to determine the planning application within the statutory period. The Council has provided a letter which sets out that had they been in a position to determine the application they would have refused it on the grounds of layout and impact on surroundings and the need for affordable housing provision and local infrastructure contributions.

Main Issues

4. Based on the above, the main issues are:
 - The effect of the proposal on the character and appearance of the area.
 - Planning obligations, with particular regard to affordable housing provision and local infrastructure.
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- The effect of the proposal on the setting of the Bierton Conservation Area and the Church of St. James, a Grade I listed building.

Reasons

Character and appearance

5. The appeal site is a grassed field on the periphery of Bierton and forms part of a series of similar fields that separate built up areas of the settlement between Burcott lane and residential development off Parsons Lane. It is surrounded on two sides by open countryside and ribbon development of one and two storey dwellings on Aylesbury Road and William Hill Drive and Kings Meadow which are both relatively recent cul-de-sac developments. The only access to the appeal site is from an existing car park that serves Kings Meadow at the end of William Hill Drive.
6. Despite the presence of other development within the immediate vicinity of the appeal site, it is clearly seen as part of the countryside and the openness and arable nature of the appeal site positively contributes to the character and appearance of this rural area. The character of the area is also clearly defined by the edge of the Kings Meadow development and the gardens of the properties along Aylesbury Road, Moat End and Old Forge Gardens so that any development on the appeal site would be seen as falling outside the built up area of the settlement.
7. The proposal would result in the introduction of a much harder edge to Bierton when viewed from the rear gardens of neighbouring residential properties and from the open countryside surrounding the site. The character of the appeal site would change from open and rural to suburban and the proposal would be clearly conspicuous in wider views.
8. Although all matters of the scheme would fall to be assessed in greater detail at a later stage, in trying to achieve an appropriate scheme at the reserved matters stage for twenty five dwellings, there are a limited number of ways in which the appeal site could be developed. Moreover, because of the shape, size and nature of the site such buildings are highly likely to end up being close together and close to the side and rear boundaries.
9. In my view, the proposal would be uncharacteristically enclosed by built form, dominated by hard elements such as the buildings, hard surfaces and tandem car parking spaces and devoid of sufficient space for soft landscaping. Furthermore, I share the Council's views that the back gardens of plots 1-7 would provide insufficient space for a landscape buffer and provide a hard boundary to the site that would not be sensitive to its rural surroundings.
10. The proposal would appear as uncharacteristically suburban intrusion into this open rural area to the detriment of the character and appearance of the area and the general settlement pattern of the village, which is a key element of the its character and appearance. It would be at serious odds with the spacious and open quality of the appeal site and the character and appearance of the area. In its context it would not represent a high quality of design and I do not

consider that this harm could be mitigated by additional landscaping in the form of new hedgerows and tree planting.

11. For these reasons, the development would cause significant harm to the character and appearance of the area and would conflict with Policy GP.35 of the Aylesbury Vale District Local Plan ('AVDLP') which, amongst other things seeks to ensure that the design of new development respects and complements the natural qualities and features of an area and the physical characteristics of the site and surroundings. I find this approach is consistent with the National Planning Policy Framework ('the Framework') insofar as the need to promote and reinforce local distinctiveness and that good design is indivisible from good planning. The proposal would therefore also conflict with the Framework.

Planning obligations

12. Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) ('the CIL Regulations') states a planning obligation may only constitute a reason for granting planning permission if the obligation passes three requirements. This is reiterated in paragraph 204 of the Framework. These requirements are that the obligation is necessary to make the development acceptable in planning terms, that it is directly related to the development and fairly and reasonably related in scale and kind to the development.
13. In order to comply with the AVDLP the appeal scheme would need to make contributions towards a range of local infrastructure and affordable housing. Policy GP.2 of the AVDLP requires that a minimum of 20% and up to 30% of the dwellings within a development of 25 or more dwellings should be affordable. Policies GP.86, GP.87, GP.88 and GP.94 of the AVDLP seek outdoor play space; children's play areas, sports fields, education and their delivery. The Council also require on site provision and maintenance of a sustainable urban drainage system, and off site highway works including Passenger Information Units. Whilst the Council also refer to drainage, I consider that this could be resolved by the imposition of a condition.
14. On the basis of the information before me, I am satisfied that the contributions are necessary to ensure that the occupiers of the development have appropriate facilities, that the additional population is provided for and alternative modes of transport encouraged. I have no reason to consider that they fail to meet the tests of necessity, relevance and fairness as set out in section 122 of the CIL Regulations and I note that such provision and contributions are not disputed by the appellant.
15. However, no legal agreement to secure such provision and the necessary contributions is before me as part of the appeal and in the absence of such the proposal fails to secure adequate provision for affordable housing and local infrastructure contributions. It would therefore conflict with Policies GP.2, GP.86, GP.87, GP.88 and GP.94 of the AVDLP, which seek to ensure that new development, delivers affordable housing and necessary associated local infrastructure.

Setting of heritage assets

16. Turning to the setting of the Bierton Conservation Area ('BCA'), the setting of a heritage asset is the surroundings in which it is experienced and such assets

are clearly influenced by the comprehension of external factors and development within their setting and its extent is not fixed and evolves over time.

17. The setting of the BCA is influenced by a variety of building styles, designs and sizes, of a variety of different forms and from different periods and in this particular case, there would be a limited perception of the proposal from the BCA. Whilst the amount of development and likely form and height of such dwellings in such proximity to the BCA would be conspicuous, there would be limited direct views and I am mindful that all matters are reserved. Accordingly, I do not consider that residential development on the site would be harmful to the setting of the BCA.
18. The Council also refer to the effect on the setting of the Church of St. James which is some distance from the site. Having visited the site, there would be a very limited perception of the proposal from that building and its curtilage. Moreover, I find that there is no historic or aesthetic connection between the appeal site and that building that forms part of how the significance of that asset is experienced. Accordingly, the proposal would not affect its setting.
19. For these reasons, the proposal would not harm the setting of the BCA or the setting of the Church of St. James and would not conflict with Policy GP.53 of the AVDLP which does not permit development that harms the setting of a conservation area. In the context of the Framework, the proposal would not cause harm to the significance of a designated heritage asset and therefore would not conflict with the heritage objectives of the Framework.

Planning balance and overall conclusions

20. Although the appellant contends that the Council cannot demonstrate a five year supply of housing land, the principle of housing is not at issue in this appeal and the policies which form the basis for the Council's objections are criteria based policies regarding qualitative and aesthetic design and heritage considerations rather than policies that constrain the supply of housing land. In this particular case, the development plan is not absent, nor is it silent and the relevant policies are not out of date and I have found conflict with Policy GP.35. Accordingly, the presumption in favour of sustainable development set out in paragraph 14 is not engaged.
21. In the normal balancing exercise required the erection of twenty five dwellings would create moderate economic and social benefits by contributing to the supply of housing, during its construction period and future residents would also support the local economy and community. There would also be financial benefits from the New Homes Bonus. However, these benefits would not outweigh the significant harm to the character and appearance of the area and the failure to secure affordable housing and local infrastructure contributions. The proposal would also fail to fulfil the social and environmental dimensions of sustainable development as set out in the Framework.
22. Although I have found that the proposal would not harm the significance of heritage assets in terms of their setting, the proposal would cause significant harm to the character and appearance of the area and would fail to secure affordable housing provision and infrastructure contributions. In my view these are the prevailing considerations and so, for the above reasons and having considered all other matters raised, the proposal would conflict with the

development plan, when read as a whole and the Framework. I therefore conclude that the appeal should be dismissed.

Richard Aston

INSPECTOR