

Appeal Decision

Site visit made on 8 November, 2016

by S. J. Buckingham, BA (Hons) DipTP MSc MRTPI FSA

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

Decision date: 10TH January, 2017

Appeal Ref: APP/J0405/W/16/3155062

Old Oak House, Old End, Buckinghamshire, MK18 2BB

- 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 Erikas Pranevicius against the decision of Aylesbury Vale District Council.
 - The application Ref 16/00662/APP, dated 22 February, 2016, was refused by notice dated 27 June, 2016.
 - The development proposed is construction of new, detached house and integral garage.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:-
 - the effect on the living conditions of occupiers of adjoining houses with regard to outlook
 - the effect on the character and appearance of the area, including on the protected tree on the appeal site and with respect to the setting of the adjacent Padbury Conservation Area and neighbouring listed buildings.

Reasons

The effect on the living conditions of occupiers of adjoining houses

3. The north-south orientated wing of the proposed dwelling would sit close to the south facing elevation of Mulberry Cottage and run along the boundary with its garden. The proposed dwelling would sit below the level of Mulberry Cottage.
 4. The concerns in relation to this juxtaposition arise from the effect on the outlook from Mulberry Cottage, which is a different consideration from the view, and not on sunlight or daylight issues. The proposal plans have been amended to show a hipped roof on the formerly gabled end of the northern part of the extension adjacent to Mulberry Cottage. It would, nonetheless, be very close to Mulberry Cottage, and likely to form an intrusive element in outlook from that house, where previously there had been only low-level garages.
 5. The western elevation of the proposed house would extend a considerable distance, at two storeys, close to the boundary with the garden area of Mulberry Cottage. Although a harmful effect on the privacy of the occupiers of
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Mulberry Cottage would be avoided through the design of the proposal, it would be likely to have an intrusive impact on the outlook from their garden at a point where it is most intensively enjoyed by the occupants of the house.

6. It would therefore have a harmful effect on their living conditions in relation to outlook, and would conflict with Policy GP8 of the AVDLP which seeks to ensure that planning permission will not be granted where the proposed development would unreasonably harm any aspect of the amenity of nearby residents.

The effect of the proposed development on the character and appearance of the area

7. The appeal site is an irregularly shaped space between buildings, originally occupied by a number of lock-up garages. These have now been removed to leave areas of concrete hardstanding fringed by the boundary walls and fences of adjoining houses. There is an oak tree in the south-western corner. The ground slopes markedly down to the south and east of the site.
8. The oak tree is well-shaped, mature and apparently healthy. It is visible in views of the site from the highway on Old End and visible from gardens and houses set around the site. It is also visible in views of the site across open land to its west side. It therefore makes a positive contribution to the open and rural character and appearance of the area.
9. This tree is now the subject of a confirmed Tree Preservation Order, and my attention has been drawn to the recently refused application to crown reduce the tree by 1.5 metres in height and 3 metres in spread, which is the subject of a separate appeal.
10. The footprint of the proposed house would come within the canopy spread of the tree. Whilst the appellant is committed to retaining and protecting the tree, pruning on a significant scale would therefore be required to facilitate the proposed development and would be likely to have a materially harmful effect on the visual quality of the tree, to the detriment of the character and appearance of the area. The possible intrusion of foundations into the root protection area of the tree has potential to damage the health and stability of the tree, causing harm to it and also to the character and appearance of the area.
11. Even if an appropriate form of reduction could be identified to accommodate development of the site, the proximity of the tree to the dwelling and its garden space would be likely to cause future occupiers of the house to put pressure on the Council to allow significant reduction works or the complete removal of the tree.
12. I conclude therefore that the appeal proposal would be likely to cause harm to the appearance of the TPO tree on site and would thereby harm the character and appearance of the area, in conflict with Policy GP39 of the AVDLP which sets out the Council's commitment to protect trees of high amenity value through the use of Tree Preservation Orders.
13. The site lies at the edge of Padbury. Mulberry Cottage and its garden wrap round it to the west with open fields beyond, and a group of listed buildings, 23 – 25 Old End sit to the east. The boundary of the Padbury Conservation Area runs along the eastern boundary of the site, and therefore while outside the conservation area, it forms part of its setting.

14. The site is currently enclosed by other built forms and boundary treatments, and no built form is visible above the boundaries. It therefore has a neutral impact on the character and appearance of the area and on the setting of the conservation area and listed buildings. It benefits from existing planning permission for a three bedroomed cottage.
15. The conservation area is one of modest vernacular buildings, relatively small in scale and simple in form, while beyond its boundaries lie buildings of more modern construction but similar in scale and form. Adjoining houses are generally single buildings, pairs or short terraces set in good-sized garden spaces to front and rear. This, with glimpses of the countryside beyond to the north and west, contributes to their village character, and that of the conservation area. Nos 24 and 25 Old End are listed Grade II, and are a pair of timber framed cottages with pitched slate roofs. No 23 is a single cottage of mixed masonry and timber-framed construction, with a steeply pitched thatched roof, and also listed Grade II.
16. The appeal proposal is for the creation of a four bedroomed, two-storey dwelling with an integral garage, L-shaped in plan. The second floor would be partly set in the roof, and lit by a number of gabled dormers. Due to the slope of the ground, it would sit below the level of Mulberry Cottage, and above that of houses on Old End and on Station Road to the south.
17. While some care has evidently been taken with the design and materials of the proposed dwelling, and its disposition within its plot, it would fill a high proportion of width and depth of the main part of the plot. I note the appellant's calculation that this would not be any more than 26% but consider that a significant proportion of the total plot area outlined in red on the submitted plans comprises the access drive, which would not be expected to accommodate buildings. I conclude therefore that the proposed dwelling would occupy a higher percentage of the part of the plot which is capable of accommodating buildings.
18. While the former garages occupied a greater area of the appeal site, they were only of single storey height, and their effect was thereby less than that of a two-storey building.
19. The footprint would be close to the northern and western site boundaries, even as now fully revealed following the demolition of the garages, and, although slightly further from the eastern boundary than the previously approved cottage, would be twice as wide at that point. The proposed garden to the south would be a small one in relation to the size of the building.
20. Overall, therefore, the development would appear cramped, a large building in a small setting, in contrast to the local character which is generally of small buildings in generous individual settings. It would therefore have a harmful effect on the character and appearance of the area, and on the setting and appearance of the adjoining Padbury Conservation Area, although, as it is partially shielded from view by surrounding buildings, the harm would be less than substantial.
21. While the ridge line of the appeal house would sit below that of 23 Old End, it would be higher than those of nos. 24 and 25. Although the bulk of the development would be to the western side of the site, set away from the eastern boundary with those the listed buildings on Old End, and the boundary

with the Padbury Conservation Area, the east-west running wing of the house would closely approach that boundary. There would be glimpses of the dwelling between nos. 24 - 25 and No 23, over the single storey side extension of no. 24, and more conspicuous views of it when looking up the slope of Old End from beyond no. 25 and over the garden of Woodbine House, from where it would appear as a large structure set close to the boundaries of its site. Mulberry Cottage is discreetly located in relation to views from Old End and Station Road, and is sufficiently set back to the north not to be visible at this point. It would not therefore be seen as a backdrop in this view.

22. The effect would therefore be to introduce a substantial built element into the current open backdrop of nos. 24 and 25. This would thereby undermine their significance as modest vernacular buildings in a generous setting in an evident edge-of-countryside location. The view of this would however be limited to one part of Old End, and in terms of the National Planning Policy Framework (the Framework), the harm on the setting of the adjoining listed building and the Padbury Conservation Area would therefore be less than substantial. Nonetheless, the Framework at paragraph 132 requires that great weight should be given to the conservation of designated heritage assets. It is also clear that the significance of a heritage asset can be harmed or lost through development within its setting.
23. As I have concluded that the appeal proposal would harm the character and appearance of the area and of the setting of the Padbury Conservation Area and listed buildings at 23 – 25 Old End, I conclude that it conflicts with Policy GP35 of the Aylesbury Vale District Local Plan 2004 (the AVDLP) which requires new development to respect and complement the physical characteristics of the site and its surroundings, local building tradition and historic scale and context of the setting, and with Policy GP53 of the AVDLP which requires development proposals not to harm the character or appearance of Conservation Areas, their settings or any associated views of or from them.
24. It is not an issue of contention that the Council is not able to demonstrate a five year deliverable housing land supply, which means that relevant policies for the supply of housing may be considered out-of-date. I also note that the principle of development on this site has been accepted through the previous grant of planning permission 15/01216/APP, and the policy conflicts identified above are not related to the supply of housing.
25. In any case, the starting point for determining the case remains the development plan unless material considerations indicate otherwise. I note that although published before the Framework, the AVDLP acknowledges the importance of sustainable development, and the policies identified in relation to this case are not inconsistent with the requirements of the Framework. This does not therefore cause me to alter the weight I have ascribed to these policies in reaching my conclusion.
26. Paragraph 134 of the Framework requires that the less than substantial harm to the designated heritage assets I have identified above should be balanced against public benefits of the proposal. Planning Practice Guidance reminds us that public benefits may include sustaining or enhancing the significance of a heritage asset and the contribution of its setting.
27. The low level garages previously on the site were of no architectural merit, although not intrusive in views of the conservation area and listed buildings,

and their replacement presents an opportunity to enhance the settings of these designated heritage assets. However, for the reasons given above, I conclude that the present scheme does not succeed in sustaining or enhancing the contribution of their setting to the significance of the Padbury Conservation Area and adjoining listed buildings. Other potential public benefits of the scheme would include the provision of a single additional house in the district and some minor short and long-term economic benefits. These benefits would therefore be limited. While it would provide a family home for the applicant, this would constitute a private benefit. Therefore there would be little public benefit arising from the proposal to offset the identified harm, to which I must attach considerable importance and weight.

Other Matters

28. The appellant has raised a number of issues relating to the conduct of the case, and while I have paid careful attention to these matters, they are not determinative in respect of the planning merits of the appeal. The appellant has expressed some concern that plan 1403-48 has not been put before me, but I have taken it into account in reaching my decision.
29. Other approved developments in the area have been mentioned by the appellant, but no details have been put before me to indicate whether or not they are comparable to the appeal proposal. In any case, each case should be determined on its merits.

Conclusion

30. For the reasons given above, and taking into account matters raised, I conclude that the appeal should be dismissed.

S J Buckingham

INSPECTOR