

Appeal Decision

Site visit made on 13 December 2016

by H Butcher BSc (Hons) MSc MRTPI

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

Decision date: 20th January 2017

Appeal Ref: APP/J0405/W/16/3159182

Middle Blackgrove Farm, Berryfields, Waddesdon, Buckinghamshire, HP22 4AD

- 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 P Wilks against the decision of Aylesbury Vale District Council.
 - The application Ref 16/00290/APP, dated 26 January 2016, was refused by notice dated 11 April 2016.
 - The development proposed is the demolition of the existing storage building and erection of three detached dwellings.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the appeal site is a suitable location for housing;
 - The effect of the development on the character and appearance of the countryside, and;
 - The effect of the development on the living conditions of future occupants of the dwellings, having particular regard to matters of noise and outlook.

Reasons

Background

3. Middle Blackgrove Farm comprises a bungalow and a number of large buildings. The building to be demolished is a relatively modern steel framed structure. It is currently in B8 use, being used for the storage of cars, and is attached by a covered yard to a second building in B2 general industrial use. There are also ancillary offices and areas of open storage on the site. Beyond is open countryside.
 4. The building in question was recently subject to a notification for prior approval for a change of use to Class C3 (dwellinghouses) under Schedule 2, Part 3, Class P of the Town and Country Planning (General Permitted Development) (England) (Amendments) Order 2015. The Council did not make a decision to approve or refuse prior approval within 56 days following the date of receipt of
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the notification for prior approval. Consequently the Council is deemed to have granted prior approval under application 15/02926/COUSR.

Suitable Location

5. To promote sustainable development in rural areas paragraph 55 of the National Planning Policy Framework (the Framework) states that housing should be located where it will enhance or maintain the vitality of rural communities. Isolated new homes in the countryside are therefore to be avoided. The appeal site is located in the countryside and occupies an isolated position insofar as it is located away from a recognised settlement and is not within easy walking distance of any services or amenities. The nearest bus stop is some 3km away. As a result future occupiers would be reliant on the use of a car to meet their day to day needs.
6. There is nothing before me to suggest that the proposed development falls into the special circumstances outlined at paragraph 55 of the Framework where new isolated homes in the countryside may be allowed. I therefore conclude that the appeal site is not a suitable location for housing and runs counter to the aim of promoting sustainable development in rural areas.

Character and Appearance

7. The buildings currently on site, albeit in use for industrial purposes, nevertheless have the functional and simplistic appearance of agricultural buildings and in that respect appear in-keeping with their rural surroundings.
8. The appellant suggests that the removal of the existing building would result in a visual improvement to the site, but I disagree. A row of three traditional, suburban styled, detached family homes here would appear as an alien and incongruous form of development, completely out of character with both the industrial character of the appeal site and the wider rural landscape. Any additional landscaping created as a result of the development would not mitigate this harm.
9. For these reasons the proposal would be harmful to the character and appearance of the countryside contrary to Policy GP35 of the Aylesbury Vale District Local Plan (January 2004) (AVDLP). This policy requires new development to respect and complement the physical characteristics of the site and its surroundings. Similarly the Framework requires development to take account of the different roles and character of different areas.

Living Conditions

10. Policy GP8 of the AVDLP seeks to protect against unreasonable harm to the amenity of nearby residents. The proposed dwellings would sit in close proximity (approximately 8m) to a large building which has planning permission for B2 general industrial use.
11. Such a use is likely to generate noise making it incompatible with residential uses. Future occupiers of the proposed dwellings should be able to expect relatively high levels of peace and quiet, particularly given that family sized dwellings are proposed. I acknowledge that the prior notification process requires an evaluation by the local authority in respect of the noise impacts of the development. However, as the Council didn't reach a view; rather deemed consent was granted because the Council failed to make a decision within 56

days of receiving the notification for prior approval, there is no evidence that the Council did this. In any event, under a section 78 appeal I am entitled to take such matters into consideration.

12. On the evidence before me I cannot be satisfied that the adjacent B2 use would not have an unreasonable impact on the living conditions of future occupiers of the proposed dwellings in terms of noise. Furthermore, the general outlook from the proposed dwellings would be undesirable both in terms of the adjacent industrial building and the surrounding open air storage.
13. Taking the above points together I find conflict with Policy GP8 of the AVDLP. Similarly I find conflict with the Framework which states that planning should always seek to secure a good standard of amenity for all future occupants of land and buildings.

Other Matters

14. As noted above the building which forms the basis of this appeal has deemed consent for a change of use into one dwelling, as set out in the Council's letter dated 26 August 2015 confirming receipt of the notification for prior approval (ref 15/02926/COUSR). This is a material consideration and creates a 'fallback' position. The existence of this deemed consent does not, however, override the need for me to consider the effects of the development before me which I am entitled to do under a Section 78 appeal. Having had regard to such effects, in my view, the proposal before me would be more harmful than the 'fallback' position as it involves the creation of three new dwellings as opposed to a change of use of an existing building to create only one dwelling. Consequently the deemed consent does not justify the proposal given the harm I have found.
15. I have also had regard to a previous planning permission granted to replace the existing bungalow on site with a larger two storey dwelling (ref 13/01716/APP). This matter does not, however, alter my conclusions above.

Planning Balance

16. At the time of determining the planning application the Council was not able to demonstrate a five year supply of housing. However, the Council's appeal statement now states that it can demonstrate a 5.8 year supply of housing following the publication of an updated Housing and Economic Needs Assessment. I haven't been provided with a copy of this assessment and, in any event, it has not been tested at examination.
17. On the evidence before me, therefore, the Council have not demonstrated a five year supply of housing land. Paragraph 49 the Framework sets out that the relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of housing. For decision taking, where the relevant policies in the development plan are out-of-date, permission should be granted 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.
18. I have considered the benefits of the development. These include the fact that the proposal would make a modest contribution to local housing supply and that future occupants of the proposed houses would support services and facilities in the area.

19. The appellant makes the case that the construction of the development would provide benefits such as employment, although this would be of a temporary nature, and that throughout the life of the dwellings there would be employment opportunities associated with the general upkeep and maintenance of the properties. However, this is offset by the loss of employment through the demolition of a B8 building. Therefore this is not a benefit to be weighed in the balance.
20. I acknowledge that the Framework supports the reuse of land that has been previously developed. Paragraph 51 of the Framework also sets out that planning applications should normally be approved for a change to residential use from commercial buildings (currently in the B use classes) where there is an identified need for additional housing in that area, providing that there are not strong economic reasons why such development would be inappropriate. However, I must assess the development against the policies in the Framework taken as a whole. In doing so I have found adverse impacts in terms of the isolated siting of three new dwellings in the countryside, the effect of the development on the character and appearance of the countryside, and harm to the living conditions of future residents by reason of noise and outlook.
21. In light of the above, the adverse impacts of granting planning permission significantly and demonstrably outweigh the benefits. I have had regard to all matters raised, including the appellant's comment that the development is readily deliverable and the environmentally sustainable design of the proposed dwellings but conclude that these matters do not outweigh the harm. The appeal is therefore dismissed.

Hayley Butcher

INSPECTOR