

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: 7th February, 2017

Appeal Ref: APP/J0405/W/16/3154649

Fayrefield, Towcester Road, Maids Moreton, Buckinghamshire, MK18 1RD

- 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 Daniel Fowler, En-Site Ltd. against the decision of Aylesbury Vale District Council.
 - The application Ref 15/02319/APP, dated 5 July, 2015 was refused by notice dated 5 April, 2016.
 - The development proposed is construction of four new dwellings and car port including associated landscaping.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issue in this case is whether the appeal proposal would constitute sustainable development in accordance with national and local policy, having particular regard to the effect on the character and appearance of the site and the adjoining Maids Moreton Conservation Area.

Reasons

3. Maids Moreton is a moderately sized settlement with a range of facilities, close to and reasonably well connected to Buckingham town centre by bus. The Council has identified it as a sustainable location for an appropriate level of housing development. However, it is concerned at the effects of the proposal on the character and appearance of the site and on the Maids Moreton Conservation Area.

Character and Appearance

4. The appeal site is an area of rough grassland set outside the village. It sits behind the rear boundaries of houses on Towcester Road and Duck Lake on two sides, and partially enclosed by developed land on its other two sides, while adjoining open countryside towards its western corner. It is accessed either by a long and narrow grassed strip leading from Towcester Road, or by a public footpath, also leading from Towcester Road, which crosses it diagonally and leads to the windmill mound to the west. It therefore forms a transition from the developed part of the village to the open countryside beyond and forms an open backdrop to this part of the village.
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5. The appeal proposal is for two pairs of three bedroom houses on two storeys and set on either side of the public footpath. Two of the houses would have attached garages and a car port would be supplied for the other two. The development would have an access drive passing along the long grassed strip between 3 Fayrefield and Rivendell, and a large hardstanding to the front of the houses to accommodate vehicle movement.
6. The amount of development would not be inappropriate for a site of this size, and the layout has evidently been carefully considered to respond to the specific circumstances of the site through the disposition of buildings in relation to the public footpath and retention of some element of informal open space. The buildings would be in an interesting modern design, employing materials appropriate to the location.
7. Although partly enclosed by developed parts of the village, the site has a very clear relationship with the open countryside beyond; the diagonal axis of the footpath crossing the site leads the eye and draws activity through the site to the western and open corner. The site also acts as an open backdrop to the small properties in relatively modest gardens set along Towcester Road and Duck Lake, emphasising their open and rural setting.
8. The number of dwellings has been reduced from the previous appeal, enabling the proposed houses to be set away from existing buildings around the site, thereby avoiding potentially harmful effects on the living conditions of the occupiers of these houses. However, the introduction of four houses would nonetheless introduce a significant built element into this previously undeveloped open land, which would have an urbanising effect exacerbated by the presence of a large area of hardstanding and the compartmentalisation of the space through the creation of private gardens. The houses would be visible from Duck Lake, glimpsed between buildings, and from the footpath which would pass between the proposed dwellings.
9. The proposal would thereby create an urbanising development which would encroach into the countryside, and undermine the rural setting of the village. As it would not respect and complement the locality or the natural features of the area, the appeal proposal would cause harm to the character and appearance of the area.
10. The appeal decision regarding the same site dated October 2014, Ref. APP/J0405/A/14/2223594 has been put before me. It is a matter to which I give considerable weight. The inspector in this case concluded that the appeal proposal was backland development, and a key consideration of its effect on the character and appearance of the area was whether or not the area already included similar backland developments.
11. The location and characteristics of the site remain the same, and the proposal must therefore still be considered as backland development. Of the five areas highlighted by the appellant as comprising similar forms of development, Scotts Farm Close and The Pightle are adopted cul-de-sacs with houses set around and therefore not directly comparable, while the other three, Duck Lake Close, The Paddocks and a further private road, are forms of backland development which unlike the appeal site are within the settlement rather than on its edge, and are completely enfolded by other developed land. As a result they have different character from the appeal site which is accessed by a particularly long

and relatively narrow strip of land and only partially enclosed by developed land.

12. I therefore consider that the presence of other backland sites in the vicinity do not set a precedent for the appeal development. I can, furthermore, find no reason to reach a different conclusion from the inspector in the previous appeal that the long, narrow and constrained access to the appeal site would be alien to the character of the area, to its harm, and that the urbanising effects of the proposed development would alter the character of the area.
13. As it would harm the character and appearance of the area, the appeal proposal would therefore conflict with policy GP.35 of the Aylesbury Vale District Local Plan 2004 (the LP).

Conservation Area

14. No conservation area appraisal has been brought to my attention, but the map of the Maids Moreton Conservation Area shows the inclusion within its boundary of large areas of open land around Duck Lake. These include the windmill mound and possible mediaeval earthworks. Although the appeal site is not included within the conservation area, it adjoins the windmill mound site and sits behind the frontage developments which are characteristic of the built form along Duck Lake, contributing to village character of the conservation area by revealing its relationship with the countryside beyond and with earlier patterns of settlement and activity.
15. By introducing a built element into the rural setting of the conservation area and by filling in part of the open area between the contemporary village and evidence of earlier activity, thereby obscuring the evolution of settlement patterns in the area, the appeal proposal would also therefore cause moderate harm to the significance of the conservation area. Although this harm would be localised, and could therefore be considered as less than substantial, Paragraph 132 of the Framework nonetheless requires that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
16. As it would harm the setting of the Maids Moreton Conservation Area the appeal proposal would also conflict with Policy GP.53 of the LP which seeks to preserve or enhance the special characteristics that led to the designation of the area.

Other Matter – Neighbours Living Conditions

17. Neighbours of the site have expressed concern at levels of noise and disturbance arising from the introduction of four new houses on the site. The appeal site is near a relatively busy road, and the noise report submitted by the appellant indicates that use of the access road associated with the proposed development is unlikely to result in significantly increased levels of activity, noise or disturbance at 3 Fayrefield and Rivendell, and concludes that the living conditions of occupiers of these properties are unlikely to be harmed. I see no reason to doubt this assessment and conclude therefore that the appeal proposal would not give rise to harm in this respect.

Public Benefits

18. The proposal would contribute to the housing stock of the District, which is an important consideration in the absence of an identified five year housing land supply, although the contribution of four dwellings would be a small one. Given however that the Framework generally encourages the supply of new housing, and as these benefits contribute towards the aim of achieving sustainable development, I give them moderate weight.
19. There would be some economic benefit during the construction phase of any development, but this would be limited and temporary. The additional increase in population would help to support local services and facilities and thereby maintain the vitality of the community. There would therefore be some economic and social benefits, but they would be small, and I therefore give them limited weight.

Planning Balance

20. There is no dispute that the Council is not able to demonstrate a five year housing land supply, and that local plan policies relating to the supply of housing, including through restricting development on the margins of settlements can therefore be considered out of date. Paragraph 14 states that where relevant policies are out of date, the presumption in favour of sustainable development means that planning 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 as a whole, or where specific policies in the Framework indicate that development should be restricted.
21. Paragraph 134 of the Framework sets out that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. In this case therefore, the presumption in favour of development will apply only if the less than substantial harm I have identified to the Maids Moreton Conservation Area is overcome.
22. In this case I find that the moderate public benefits of the proposal through its contribution to the local housing supply and limited contribution to the viability of the rural settlement would not outweigh the harm to the significance of the Maids Moreton Conservation Area that would result. I therefore conclude that the development proposed would not be consistent with the principles of sustainable development and that the presumption in favour set out in paragraph 14 of the Framework would not be engaged.
23. In addition to the harm to the significance of the designated heritage asset. I have also identified harm to the character and appearance of the area. The proposal would be contrary to national and local policy and would not in this respect comprise sustainable development.

Other Matters

24. The Council originally refused the appeal application on the grounds that had it not been refused for other reasons, a Section 106 Agreement to secure financial contributions towards off site leisure and open space provision would have been required. However, following the Court of Appeal judgement on 11

May 2016¹, Planning Practice Guidance has clarified that tariff-style planning obligations should not be sought from small scale development. The Council has subsequently stated that it does not wish to pursue this reason for refusal. I concur that no such obligation is required.

Conclusion

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

S J Buckingham

INSPECTOR

¹ SSCLG vs West Berkshire District Council and Reading Borough Council [2016] EWCA Civ 441