
Appeal Decision

Site visit made on 20 February 2017

by Jonathan Price BA(Hons) DMS DipTP MRTPI

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

Decision date: 21st March 2017

Appeal Ref: APP/J0405/W/16/3162451

138 London Road, Aston Clinton, Buckinghamshire HP22 5LB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mrs Aneta Swierk against the decision of Aylesbury Vale District Council.
 - The application Ref 16/02033/AOP, dated 2 June 2016, was refused by notice dated 31 October 2016.
 - The development proposed is the demolition of the existing detached dwelling and any associated outbuildings and the erection of a block containing ten flats plus a new access road and parking area.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing detached dwelling and any associated outbuildings and the erection of a block containing ten flats plus a new access road and parking area at 138 London Road, Aston Clinton, Buckinghamshire HP22 5LB in accordance with the terms of the application, Ref 16/02033/AOP, dated 2 June 2016, subject to the conditions set out in the Schedule attached to this decision.

Procedural Matters

2. The application was made in outline with reserved matters approval sought also for access, appearance, layout and scale. I have dealt with the appeal on this basis.
 3. The Council's refusal was for three reasons. The first two reasons relate to the adequacy of the site access and vehicle manoeuvring provision which I consider to be the main issues in the appeal. The third relates to the absence of information necessary to ensure any impacts on biodiversity have been assessed and mitigated for, which would have been requested were the proposal not considered unacceptable in respect of the first two reasons.
 4. I am unclear why the Council's third reason is included in the decision, given that there was no evidence of any significant biodiversity interest. An Ecological Assessment for a wider proposal including the demolition of No 138 has since indicated this to be the case. The Council's statement has not elaborated further in respect of any concerns over biodiversity and the evidence is that this proposal would be unlikely to have any harmful effect on such interests that might warrant further consideration in the appeal.
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Main Issue

5. Consequently, the main issue in this case is the effect of the proposal on the safety and convenience of existing and future users of the adjacent highway.

Background and policy context

6. The appeal site comprises a plot of land containing a large detached house which fronts onto the north side of London Road, opposite its junction with Stablebridge Road. The dwelling is set substantially back from the road to a building line observed by the frontage houses that continue east along this side of London Road, all of which are within significantly narrower plots.
7. Adjacent and to the west of No 138 is a recent development, comprising three blocks of flats and a surgery. This occupies a corner site at the junction of London Road with Lower Icknield Way, which is served by a mini-roundabout. This neighbouring development has vehicular access from Lower Icknield Way, rather than directly onto London Road.
8. The site is within the built-up part of the expanded village of Aston Clinton where the London Road provides the main through-route. London Road is a C Class road with a 30 mph speed limit through the village, which is by-passed by the A41 to the north. In this location there is street lighting and a 2m wide footway. The proposal would make use of the relatively large plot to redevelop the site, over the footprint of the existing house, to provide a single three-storey block of 10 flats.
9. The development plan comprises the saved policies in the Aylesbury Vale District Local Plan 2004 (AVDLP). In summary, and based on the Council's statement, the proposal would satisfy AVDLP Policy GP8 in causing no material harm to the living conditions of neighbouring occupiers, Policy GP24 in regard to adequate car parking provision, Policy GP35 in the design respecting its surroundings, Policy GP38 in respect of the potential for adequate landscaping, policies GP39 and GP40 over preserving the amenity and landscape value of trees and hedgerows and policies GP86-88 and GP94 in respect of not requiring contributions to community facilities in the light of recent Government advice. There are rather contradictory references in parts of the Council's statement to the proposal harming the character of the area, but as this is not reflected in the reasons for refusal these can be given no weight.
10. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that the determination of the appeal be made in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (the Framework) is a material planning consideration. The Council's decision refers to the presumption in favour of sustainable development in paragraph 14 of the Framework.
11. Paragraph 14 of the Framework applies in this case as the AVDLP policies relating to housing supply are out-of-date as these only cover the plan period up to 2011. This means approving development proposals that accord with the development plan without delay; and where the development plan is absent, silent or relevant policies are out-of-date, granting permission 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.

Reasons

12. Paragraph 32 of the Framework requires that all developments generating significant movement should be supported by a Transport Statement or Transport Assessment. Decisions should take account of whether safe and suitable access to the site can be achieved for all people. The existing access is at the eastern end of the site frontage and the proposal would involve widening this to 4.8m. The Council's first reason for refusal is that the intensification of the use of this access would have a severe impact on highway safety.
13. The main concern of the local highway authority is that the position of the access, whilst as far to the east of possible, would be opposite to the Stablebridge Road junction, where there is a 3m wide ghost right hand lane for vehicles from the west to use in turning off the London Road. This was evident at my visit although the road markings were worn and in need of re-painting.
14. I agree that the current use of this access can give rise to conflicting vehicular movements. The highway authority's concern is that vehicles turning right out of the site onto London Road, to travel west-bound, would have to cross over the edge of the right hand turn lane, where the hatched marking beyond this starts, as well as having to consider any oncoming traffic in the main left lane.
15. However, the access is on a relatively straight section of road with adequate visibility in either direction. Therefore, traffic exiting to turn right out of the site would be able to assess any degree of conflict necessary to enable a safe manoeuvre. There are a number of other private accesses along this road where exits involve crossing hatched areas and ghost lanes. Most of these relate to single dwellings, and the local highway authority finds none of these to be directly opposite a junction. However, the appellant refers to the quite large car park to the Bell Inn public house, further west along London Road, where a very similar situation exists opposite the junction to Green End Street. Whilst it would not be good practice to intensify such conflicting access arrangements there is no correlation between the accident statistics and such situations.
16. The local highway authority is also concerned the proposal would intensifying vehicular right turns into the appeal site which would face onto any drivers in the ghost lane turning right into Stablebridge Road. These movements are not unlawful as drivers are permitted to enter the hatched area preceding the ghost lane to enable a right turn. I am not persuaded that vehicles approaching each other and slowing down to make these respective right turns would result in physical conflict or be materially hazardous in this particular road context, subject to reasonable driver behaviour.
17. The local highway authority accepts the appellant's TRICS-based traffic generation estimates of an additional 57 two-way movements daily due to the development, but contests the assumed even two-way split between vehicles to and from the west and east. However, from the characteristics of the location an even two way split would be a reasonable assumption to make. Whilst the appellant has not provided a traffic survey of the amounts and speeds of movements on London Road, and these would not be evenly distributed throughout the day but concentrated at peak morning and afternoon periods, I am not persuaded that the increase in right hand turns in and out of the site would be significantly hazardous such as to cause material harm to the safety of existing and future road users.

18. The second reason for refusal relates to the lack of adequate space for the loading, unloading and manoeuvring of service vehicles clear of the highway. There would be adequate space on site in most instances for small vehicles to enter and leave the site in a forward gear when making deliveries or collections. Large vehicles, such as removal vans, would be occasional and it would be entirely disproportionate to require a proposal for 10 flats, on a relatively small site within a residential area, to make on-site provision for the turning and manoeuvring of these.
19. Refuse trucks would visit the site regularly but these would already stop for periods along the street to collect from individual dwellings. I do not consider that the additional time to stop and collect the refuse from 10 flats rather than one dwelling, even taking into account the greater degree of vehicular conflict caused by the position of the site opposite to the Stablebridge Road junction, would make any material difference to highway safety.
20. The increased level of road user conflict and the amount of on-site turning provision would not result in this proposal failing to achieve the safe and suitable access required through paragraph 32 of the Framework.

Other matters

21. Consideration has been given to the further concerns raised by interested parties. These are in respect of the proposal causing noise and the loss of light and privacy, harming the character of the area and exceeding the capacity of local services, including schools, doctors and drainage. However, these raise no further matters which are of a materially determinative nature that should prevent this development going ahead or which might not otherwise be addressed by planning conditions.

Planning balance

22. The Council's policies are out-of-date in respect of housing supply. This requires that the presumption in favour of sustainable development set out in paragraph 14 of the Framework be applied. This would mean granting permission 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.
23. Paragraph 6 of the Framework establishes that the purpose of the planning system is to contribute to the achievement of sustainable development and paragraphs 18 to 219, taken as a whole, comprise the Government's view as to what this means in practice. Based on the three strands to sustainable development the planning system performs economic, social and environmental roles which the Framework requires to be sought jointly and simultaneously.
24. The 10 flats would provide positive social benefits in contributing to the supply of housing and economic benefits through their construction and servicing, and by generally helping maintain and enhance the vitality of this village. The proposal would comply with the policies in the AVDLP but these are silent in respect of the safety and convenience of existing and future users of the adjacent highway which is an important consideration. In environmental terms, the proposal would relate satisfactorily to the character and appearance of the area and result in no material harm to the living conditions of

neighbouring occupants. In this case the adverse impacts found, in regard to the level of road user conflict and the provision of on-site turning space, would not significantly and demonstrably outweigh the benefits identified.

Conditions

25. I have had regard to the various planning conditions suggested by the Council, and where necessary the wording of these is amended to ensure consistency with paragraph 206 of the Framework. In addition to the standard conditions regarding the submission and approval of reserved matters, commencement of development, plans compliance and landscaping completion, it is necessary to secure details of various matters before the development may commence. These include the following. Details of both the finished levels of the development and the external materials to be used which are required in the interests of character and appearance. Details of foul and surface water drainage arrangements, in order to ensure the development is adequately drained. Details of the junction of the new access onto the London Road, necessary in the interests of highway safety.
26. To ensure adequate car parking and manoeuvring space within the development this must be provided as shown before any of the units are occupied and thereafter retained. The flats would not be so close to the road for a condition to require an acoustic report and noise mitigation measures. Means of enclosure would be a matter suitably addressed through the determination of the outstanding reserved matters.

Conclusion

27. The proposal would gain the support of a presumption in favour of sustainable development as set out in the Framework. For the reasons set out above, and having taken into account all other matters raised, I conclude that this appeal should be allowed.

Jonathan Price

INSPECTOR

Schedule of Conditions
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- 1) Details of landscaping, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: LR/001/16 HIG, LR/002/16 Rev A and the site location plan.
- 5) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 6) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floor of the proposed building, in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.
- 7) No development on the building shall commence until details of the proposed means of disposal of foul and surface water drainage have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out using the approved scheme of drainage.
- 8) No development shall take place above damp proof course level until samples of the materials proposed to be used on the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority.
- 9) No development shall take place until details of the junction between the proposed service road and the highway shall have been submitted to and approved in writing by the local planning authority; and the development shall not be occupied until that junction has been constructed in accordance with the approved details. The junction shall thereafter be retained.
- 10) None of the flats shall be occupied until the space has been laid out within the site in accordance with drawing no. LR/001/16 HIG for 15 cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear and that space shall thereafter be kept available at all times for those purposes.

End of conditions