

Appeal Decision

Site visit made on 31 January 2017

by JP Sargent BA(Hons) MA MRTPI

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

Decision date: 5 May 2017

Appeal Ref: APP/J0405/W/16/3162326

16 Buckland Road, Buckland HP22 5LP

- 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 Hayden Robson against the decision of Aylesbury Vale District Council.
 - The application Ref 16/03081/APP, dated 22 August 2016, was refused by notice dated 20 October 2016.
 - The development proposed is the erection of a 3-bedroom bungalow served by the approved new vehicular access off Lower Icknield Way
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are
 - a) whether the District has a 5 year supply of deliverable housing sites;
 - b) the effect of the scheme on the character and appearance of the area;
 - c) the effect on living conditions and
 - d) if any harm would be caused whether this would significantly and demonstrably outweigh any benefit resulting from the contribution of the development to housing land supply (the balancing exercise).

Policy

3. The *Vale of Aylesbury District Local Plan* is at a relatively early stage of preparation and so I cannot afford it significant weight. However, the *Buckland Neighbourhood Plan* (the Neighbourhood Plan) has been made and so that is given full weight as a development plan document.

Reasons

Housing land supply

4. The Council accepted its development plan policies concerning the supply of housing were out-of-date, but said it could nonetheless demonstrate a 5 year supply of deliverable housing sites. This is based on information in the *Housing and Economic Development Needs Assessment* for the County, which was reviewed to take into account the most recent population projections. However, the Council's position has not been tested independently, and unmet need has not been addressed.
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5. Therefore, I am not satisfied it has in fact demonstrated that a 5 year supply of deliverable housing sites exists. Consequently paragraphs 49 and 14 in the *National Planning Policy Framework* (the Framework) are engaged. These say that in such an instance the relevant policies for the supply of housing should not be considered up-to-date, and where policies are out-of-date planning permission should be granted unless the adverse impacts of so doing would significantly and demonstrably outweigh the benefits.
6. The Neighbourhood Plan has been made within the last 2 years, and so I have had regard to the Written Ministerial Statement dated 12 December 2016. However, in the light of the above I have found the Council has not shown it has a 3 year supply of deliverable housing sites, while the Neighbourhood Plan allocates no sites for housing. Therefore the Neighbourhood Plan does not have a bearing on my findings in relation to the status of the relevant policies for the supply of housing.
7. I accept the proposed house would contribute towards addressing this shortfall, and this should be given significant weight. However, as just one additional property would be provided this would only be a moderate benefit.

Character and appearance

8. The appeal site is behind 16 Buckland Road, which stands at the corner of Buckland Road and Lower Icknield Way. It is outside any settlement boundary in the designated countryside. Immediately to the south-east along Buckland Road is a line of 2-storey dwellings and to the north-east is a paddock with 2 more houses beyond standing in extensive grounds. On the opposite side of Lower Icknield Way across a field is a large agricultural building. The site itself is a grassed paddock, and while the Appellant contends it is residential curtilage (presumably connected with No 16) the Council considers it to be outside the curtilage of that property. I have nothing to confirm this one way or the other, though I note the gardens of the adjacent houses on Buckland Road consistently extend as far as the appeal site's north-eastern boundary.
9. Planning permission has recently been granted for a stables and access on the land, but there was no evidence that permission had been implemented.
10. The proposal would be introducing a further dwelling into this rural landscape that would diminish and erode its open character and its appearance to some degree. In assessing this impact I consider the development cannot be seen as an infill site under the Neighbourhood Plan, because although a dwelling is to the north-east that is some way away with a paddock in between. However, when travelling along Lower Icknield Way from the south this new bungalow would be viewed in the context of No 16, and coming from the other direction one would have already passed a group of 3 dwellings and the proposal would then be set against the Appellant's property and the row of houses adjacent. Therefore, while this would constitute further built form in this rural area it would not be an isolated new home in the countryside, and so although it would cause some harm to the surroundings its context means the level of harm would be limited.
11. Moreover, its single storey height would further reduce its impact and assist in making it a subservient element in this context. Therefore, even though there are taller properties nearby, it would not be at odds with the local distinctiveness of the area or the local architecture in any harmful way.

12. A tree is in the neighbouring garden, but I was not told that it was protected. Mindful of this I consider that any harm it may experience as a result of the development is not a basis to resist the appeal.
13. The Council has cited a conflict with 3 policies. However, Neighbourhood Plan Policy BP5 only states that infilling will be supported, and expresses no comment about sites such as this that do not comprise infilling. The other policies referenced were Policy GP.35 in the *Aylesbury Vale District Local Plan* and Policy BP3 in the Neighbourhood Plan, which both seek, amongst other things, to ensure development respects local distinctiveness. To my mind these policies constrain the design of new housing rather than restrict the locations where new houses may be developed, and so in this instance should not be deemed out-of-date. However, as my concern is focussed more on the effects of further built form on this site rather than the specific design proposed I consider there is no conflict with those policies.
14. Local residents also made reference to paragraph 53 of the Framework but I was referred to no development plan policies that resisted housing in domestic gardens.
15. Accordingly, for the reasons stated I find harm would be caused to the character and appearance of the area, and so, in relation to this issue, the scheme would conflict with the Framework.

Living conditions

16. The Framework says that the need to seek a good standard of amenity for all existing residents and future occupiers is a core planning principle.
17. The sole window to one of the bedrooms in the proposed bungalow would be very close to the boundary with the adjacent house called Ridgeview, and would have its only outlook over that neighbouring garden. I appreciate that garden is long, and the area by this window is not the part the residents at Ridgeview appear to use the most, but a reasonable amount of privacy can nonetheless be expected. In my opinion the relationship before me would give rise to a level of overlooking that would be unacceptable.
18. In coming to this view it is noted that the window is at ground floor level, but given its closeness to the boundary that serves only to increase overlooking. I also accept that side-facing windows are not uncommon on houses, but they tend to be looking towards the side wall of the neighbouring building or be secondary windows, and so the loss of privacy is not as pronounced. Moreover, whilst some overlooking of the garden of Ridgeview would be possible from the front and rear windows of the proposed bungalow, their orientation means any such overlooking would not be as direct or inevitable. Similarly this part of Ridgeview's garden can no doubt be seen from the upper rooms of neighbouring houses, but those are more distant views and so any loss of privacy is not comparable.
19. I am aware the neighbouring residents have not expressed concern in this regard, but little weight can be given to that as there are many reasons why people do not make representations.
20. The Appellant has suggested a boundary treatment could be agreed to prevent such overlooking. However, that would be only 1m or so from the window, and

so would result in the room having no appreciable outlook. Therefore, that solution would create poor living conditions for the proposal's residents.

21. Accordingly I conclude that the development would result in an unacceptable loss of privacy for adjacent residents and would not achieve a good standard of amenity, and so in this regard it would conflict with the Framework.

Other matters

22. With the sight lines shown I consider there would be safe access to and from the site. Although the ability to create these sight lines has been questioned I have no basis to consider they are not achievable, though their provision could be required by condition.
23. I appreciate that the site lies outside any settlement, but Aston Clinton is nearby and that appears to have a relatively wide range of services and facilities. Therefore, this location would result in some reliance on the car to access day-to-day services but these journeys would not be long. However, it would be too remote to be particularly suitable for the elderly.
24. I am aware of no requirement for this to be an affordable house.

Balancing exercise

25. Paragraph 14 of the Framework says when the development plan is silent or the relevant policies are out-of-date, planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits. In this case the Council accepts development plan is out-of-date concerning matters relevant to the supply of housing.
26. I have attached significant weight to the moderate benefit of a further residential unit in a District where a 5 year supply in deliverable housing sites has not been demonstrated. I also acknowledge that there would be some economic benefits resulting from the construction process and from the purchasing power of an additional household.
27. Against this is the harm, albeit limited, to the character and appearance of the area, while harm is also caused to the living conditions of neighbouring residents as a result of overlooking. On balance, and mindful especially of the adverse effects on the neighbours, I consider that the harm resulting from these factors significantly and demonstrably outweighs the benefit resulting from the provision of a single dwelling.

Conclusion

28. Accordingly, for the reasons given I conclude that planning permission should be refused.

J P Sargent

INSPECTOR