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## Appeal Decision

Site visit made on 1 March 2017

**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: 22<sup>nd</sup> May 2017**

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**Appeal Ref: APP/K0425/W/16/3162468**

**Abbattsfield, Ibstone, Buckinghamshire, HP14 3XZ**

- 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 David Anker against the decision of Wycombe District Council.
  - The application Ref 16/05961/FUL, dated 30 March 2016, was refused by notice dated 27 May 2016.
  - The development proposed is erection of a dwelling.
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### Decision

1. The appeal is allowed and planning permission is granted for erection of a dwelling at Abbattsfield, Ibstone, Buckinghamshire, HP14 3XZ in accordance with the terms of the application, Ref 16/05961/FUL, dated 30 March 2016, and the plans submitted with it, subject to the conditions set out in the schedule to this decision.

### Preliminary Matter

2. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.

### Main Issues

3. The main issue in this case is whether the proposal constitutes sustainable development in regard to the provisions of the National Planning Policy Framework (the Framework) and development plan, with particular regard to its effect on the character and appearance of the area, including the effect on the Chilterns Area of Outstanding Natural Beauty and on the protected trees on site.

### Reasons

4. Ibstone is a linear settlement drawn out along for some distance along Ibstone Road. It includes a number of distinct areas of development, clearly separated by open countryside, and generally comprised of groups of detached houses within generous gardens.
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5. The appeal proposal is for the erection of a two bedroom house in the garden area of Abbatsfield. The host dwelling is set away from the road frontage, while the proposed dwelling would sit to the front of the site adjoining Ibstone Road. The houses would share an access and part of a drive.
6. The Council is concerned to preserve the sporadic nature of the settlement pattern. Abbatsfield sits within a group of houses within the settlement, flanked by houses on both sides. The appeal site is in the garden area adjoining the road, which, while well screened by hedges and trees, is domestic in appearance due to its planting and maintenance and that of the exterior verge, and not therefore likely to be mistaken for a countryside gap between parts of the settlement. The appeal proposal would therefore fill a gap within this group of buildings, without compromising its separation from other such groups within the settlement. As a result, I conclude that it would not compromise the settlement pattern.
7. When viewed from outside the site the appeal building would appear as a continuation of the line of houses set along Ibstone Road, and would not therefore appear out of character with the pattern of development within the settlement as it sits within the Area of Outstanding Natural Beauty, and would not harm the appearance of that area.
8. As the proposal would not harm the character and appearance of the area or that of the AONB, I conclude that it would not conflict with the provisions of Policies CS1, CS7 and CS19 of the Adopted Core Strategy 2008 (the CS) in respect of protecting character and appearance, and particularly in relation to rural areas and settlements. Nor would it conflict with Policy G3 of the Adopted Wycombe District Local Plan 2011 as extended and partially replaced (the LP) which seeks development which reflects and respects local character. It would not conflict with Policy L1 of the LP or Policy CS17 of the CS which seek development which conserves the AONB and its scenic beauty.
9. The appeal site is covered by a Tree Preservation Order which covers the garden area of Abbatsfield where it adjoins the road and to which I have had regard. This area includes a line of medium sized trees set behind the hedge, and a smaller group, also of medium sized trees and roughly aligned, set to the rear of the appeal site. The appeal dwelling would be set between these two groups of trees.
10. The appellant has submitted an arboricultural report that indicates that the proposed dwelling could be contained between the tree canopies with some minor pruning, and that pruning could maintain a balanced relationship between the structure and trees in future. Given the location of the two groups of trees on either edge of the appeal site and the space available between them, I can see no reason to doubt this.
11. A number of trees would sit within or near the rear boundary of the garden of the proposed dwelling. They would be to the west and north of the garden area, and are well spaced some metres apart. The trees and hedgerow to the front of the site would be relatively close to the front of the building. However, while they would undoubtedly have a shading effect, no technical evidence has been put before me to support the Council's statement that they would significantly compromise levels of light and sunlight entering the garden and dwelling. It is not therefore clear to me future occupiers of the dwelling

would in fact be driven to seek levels of pruning of the protected trees which would go beyond the ongoing maintenance of the trees and which would not be capable of being restricted to appropriate levels by existence of a Tree Preservation Order on the site.

12. I conclude therefore that the appeal development would not harm the established character of the site or of the wider AONB in respect of tree cover. It would not, as a result, conflict with the provisions of Policies G10 and G11 of the LP in requiring that adequate account is taken of existing tree cover in development proposals, and that their future retention is not put at risk.
13. There is no dispute that the Council is not able to demonstrate a five year housing land supply, and that paragraphs 14 and 49 of the National Planning Policy Framework (the Framework) therefore apply. As a result policies within the development plan which relate to the supply of housing cannot be considered up to 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.
14. The appeal proposal would provide an additional dwelling within the District, which would be a small benefit. However, in the absence of a five year housing land supply, I accord this moderate weight.
15. The appeal site is within a settlement which offers limited services, and very limited access to public transport. Future occupiers of the appeal dwelling would provide some support to the viability of those services which exist, which would be a minor benefit in meeting the aims of paragraph 55 of the Framework to enhance or maintain the vitality of rural communities. These occupiers would be reliant on car travel to meet many of their needs, but in the context of the numbers of dwellings in the settlement, the increased number of vehicle movements are not likely to be to a level that would conflict with the aims of the Framework to minimise the need to travel and maximise the use of sustainable forms of transport.
16. There would be some economic benefits generated by the construction of the appeal dwelling, but they would be short term and limited.
17. There would therefore be some overall economic and social benefits from proposal, which would be offset to a degree by the small increase in private car journeys created by an additional dwelling. However, as I have concluded that the proposed house would not cause any significant harm to the character and appearance of the area, there are no additional adverse impacts which would significantly and demonstrably outweigh the benefits of the scheme.
18. Therefore, having regards to paragraphs 14 and 49 of the Framework, and when assessed against its policies taken as a whole, I conclude that the proposal would meet the overarching aim of the Framework to achieve sustainable development.

## **Other Matters**

19. In terms of setting a precedent for infilling of open pasture land, I have not identified harm in this case because the appeal site is not such land, and every case should be determined on its own merits.
20. The issue of parking provision was raised, but not given as a reason for refusal by the Council. The appeal plans show garage space and parking provision for up to four cars, and as the appeal site is on a quiet road, and appears capable of allowing cars to enter and leave the site in forward gear, I do not consider that this would be likely to give rise to problems of highway safety or parking congestion in the area.
21. Although the ground slopes down to the south and east of the site, it did not appear to me to do so sufficiently steeply to be likely to result in the appeal dwelling dominating the outlook from adjoining properties in those directions.

## **Conclusion**

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

## **Conditions**

23. The Council has suggested planning conditions, which the appellant has had an opportunity to comment on and which I have taken into account.
24. For clarity, a condition is added requiring implementation of the scheme in accordance with the approved plans. Details or samples of materials to be used in the external faces of the building are required by condition in the interests of protecting the character and appearance of the area.
25. As there is a Tree Preservation Order covering the appeal site, it seems to me that any trees which are to be retained in accordance with the approved plans may not in any case be cut down, uprooted, destroyed, pruned, cut or damaged in any manner without the consent of the Council, and that if this was granted, it could include conditions securing a replacement tree. It would therefore be unreasonable to add conditions controlling these eventualities. However, I have added a condition requiring compliance with the arboricultural method statement submitted with the planning application in the interests of securing protection and supervision of trees while development is carried out, and protection of the character and appearance of the area.
26. A condition requires the implementation of a water efficiency scheme in the interests of the sustainable development of the site.
27. The Framework is clear that planning conditions should not be used to restrict national permitted development rights unless there is a clear justification for doing so, and should only be used in exceptional circumstances. No clear justification has been put forward to demonstrate that such circumstances exist, and I have not, therefore, applied such a condition.

*S J Buckingham*

INSPECTOR

### **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan, Site Plan 1457/01A, 1457/02.
- 3) No development shall commence until details or samples of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details or samples.
- 4) The development shall take place in accordance with the arboricultural method statement (AMS) and tree protection plan submitted as part of the planning application, and any permitted works, Construction Exclusion Zone and other works which are specified in the AMS will take place under the supervision of a retained arboricultural specialist. A single page report and photographic record showing the supervised works will be submitted to the Local Planning Authority within 7 days of each supervised event which will result in a certificate being issued by the planning authority upon completion.
- 5) A water efficiency scheme shall be submitted to and approved in writing by the local planning authority before any development takes place comprising measures to achieve a water efficiency standard of 105 litres per head per day. The approved scheme shall be fully implemented prior to the first occupation of the dwelling hereby permitted and shall remain operational for the lifetime of the development.