
Appeal Decision

Site visit made on 28 November 2017

by Amanda Blicq BSc (Hons) MA CMLI

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

Decision date: 4th December 2107

Appeal Ref: APP/J0405/W/17/3181263

Land adj. Rose Cottage, Chapel Lane, Akeley MK18 5HU

- 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 and Mrs Phillips against the decision of Aylesbury Vale District Council.
 - The application Ref 16/03461/APP, dated 25 April 2016, was refused by notice dated 23 February 2017.
 - The development proposed is two bedroomed bungalow.
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Decision

1. The appeal is allowed and planning permission is granted for two bedroomed bungalow at Land adj. Rose Cottage, Chapel Lane, Akeley MK18 5HU in accordance with the terms of the application, Ref 16/03461/APP, dated 25 April 2016, subject to the conditions listed in the schedule following this decision.

Procedural Matters

2. The Council has highlighted that the appeal form was completed in the name of Mr Rod Phillips rather than Mr and Mrs Phillips. However, I have confirmed during the appeal that Mr Rod Phillips was one of the named applicants.
3. For clarity I have added information regarding the exact position of the plot on Chapel Lane, as used in the decision notice, in the heading above.
4. Although the Council has referred to Paragraph 14 of the National Planning Policy Framework (the Framework) in the planning balance, the final limb of Paragraph 14 is only engaged where the development plan is absent, silent or relevant policies are out of date. There is nothing before me to indicate that the development plan is out of date and therefore I have given full weight to the policy cited in the decision notice.

Main Issue

5. The main issue is the effect of the development on the character and appearance of the area.

Reasons

6. The appeal site is in a slight hollow on the northern side of Chapel Lane, at the end of a line of dwellings. On the southern side of the lane, ribbon development extends significantly beyond the appeal site towards open countryside. The site currently houses a garage, hen houses and sheds.

- Mature trees and hedges in and around the site limit visibility and give the area a semi-rural character.
7. The development comprises a modest bungalow, of a style and size reflective of the underlying building pattern and density.
 8. The decision notice states that the site lies beyond the built up confines of the settlement and I appreciate that the development would entail its domestication. However, it is already used as a small-holding and was previously garden land belonging to the neighbouring dwelling, Rose Cottage. Moreover, there is nothing before me to indicate that Akeley has a formal settlement boundary and the Council has allowed infill development opposite the appeal site.
 9. In addition, the presence of a garage within the site and a greenhouse on the plot to the immediate east, are suggestive of residential character. Furthermore, the land to the immediate north is a garden. As such, although I appreciate that a limited section of one boundary abuts a large field, I conclude that functionally and visually, the site is situated within the settlement. Consequently, I disagree with the Council that the site lies outside the built up area of Akeley and within open countryside.
 10. The Council has brought a previous appeal decision to my attention¹. The Inspector concluded that the proposed detached house would be poorly related to the existing settlement and would extend development into the surrounding countryside in conflict with the objectives of Policy RA14 of the Local Plan (LP)². However, since that appeal, in addition to the infill development opposite the site, extensive building works have been undertaken to extend Ash Wood, to the east. This is now a very large dwelling with contemporary styling and a suburban appearance. Whilst I appreciate that the appeal site would shift development eastwards on the northern side of the lane, the intensity and spread of development on the southern side is such that the former rural character of Chapel Lane has now been diminished.
 11. In addition, this previous appeal related to a different development, and cited a different policy in the decision notice. Consequently, I give limited weight to the conclusions of the previous appeal.
 12. The Council notes that under the emerging Local Plan³, Akeley is considered a small village, able to take a small level of development. On the basis of the evidence before me I see no reason to disagree with that view. Although the emerging Local Plan has not yet been through the examination phase, and is not determinative, it reinforces my reasoning.
 13. In the light of the above, I am satisfied that the development would not have an adverse effect on the character and appearance of the area. As such, it would not be contrary to LP Policy GP35 which states, amongst other considerations, that new development should respect and complement the physical characteristics of the site and surroundings, and the natural qualities and features of the area. Nor would the development be contrary to the provisions of the core planning principles of the Framework with regard to the safeguarding of the intrinsic character and beauty of the countryside.

¹ APP/J0405/A/14/2214644

² Aylesbury Vale District Local Plan, January 2004

³ Pre-Examination Draft Vale of Aylesbury District Local Plan 2013-2033

Other matters

14. With regard to setting a precedent, there is nothing in the evidence before me to indicate that there are comparable situations in other parts of the district and in any case, the Council would consider each case on its merits.
15. The site is adjacent to the Akeley Conservation Area. However, there is nothing in the evidence before me to indicate that the development would fail to preserve either the character or appearance of that area.

Conditions

16. I have considered the conditions put forward by the Council against the requirements of the national Planning Practice Guidance and the Framework. In respect of the plans, I have imposed a condition specifying the drawings upon which I have based this appeal, as this provides certainty.
17. I have imposed a pre-commencement condition in relation to archaeological investigation, in order to ensure archaeological information related to the nearby heritage asset is recorded and safeguarded.
18. In order to minimise obstruction, inconvenience and risk to users of the highway, I have imposed a condition requiring the construction of the access as the first element of works, and a condition requiring the construction of vehicular hardstanding areas within the site before first occupation of the development.
19. I have also imposed pre-commencement conditions requiring the submission of details in respect of floor slabs, finished ground levels, foundation details and tree protection measures in order to ensure the development is sympathetic to the constraints of the site, enables the retention of site vegetation and has a satisfactory appearance in keeping with its semi-rural location. To further safeguard the character and appearance of the area I have imposed conditions requiring the approval of materials to be used on external surfaces, and the nature and detail of boundary details, as well as a hard and soft landscape scheme.
20. With regard to the suggested condition in relation to permitted development, I am not satisfied that restrictions to permitted development are either reasonable or necessary to make the development acceptable in planning terms.
21. Where necessary and in the interests of clarity and precision I have altered the conditions to better reflect the relevant guidance.

Conclusion

22. For the reasons given above and taking all matters into account, I conclude that the development would not be contrary to the relevant policies of the Council's Local Plan and would therefore be sustainable development. The appeal should be allowed.

Amanda Blicq

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: Dwg.s PL01; PL02; PL03; PL04.
- 3) No development shall take place until details of the proposed slab levels of the building in relation to the existing and proposed levels of the site relative to a fixed datum point, and details of building foundations which will be designed to avoid negative impact upon the roots of retained trees, have been submitted to and approved in writing by the local planning authority. The development shall be constructed in accordance with the approved slab levels and details.
- 4) No development shall take place until the applicant, or their agent or successors in title, have secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation, submitted to and approved in writing by the local planning authority. The development shall only be implemented in accordance with the approved scheme.
- 5) No site clearance works or development shall take place until a tree survey showing the type, height and position of all trees on the site and a scheme for the protection of retained trees has been submitted to and approved in writing the local planning authority. Unless otherwise agreed in writing by the local planning authority protective fencing around retained trees shall comprise a barrier complying with Figure 2 of BS 5837:2012 positioned at the edge, or outside the Root Protection Area shown on the tree protection plan. The area surrounding each tree or hedge within the approved protective fencing shall remain undisturbed during the course of the works, and in particular in these areas:
 - i) There shall be no changes in ground levels;
 - ii) No materials or plant shall be stored;
 - iii) No buildings or temporary buildings shall be erected or stationed unless these are elements of the agreed tree protection plan;
 - iv) No materials or waste shall be burnt nor within 20 metres of any retained tree; and
 - v) No drain runs or other trenches shall be dug or otherwise created , without the prior written consent of the local planning authority.
- 6) No other part of the development shall begin until the new means of access has been sited and laid out in accordance with the approved drawing and constructed in accordance with Buckinghamshire County Council's guidance note "*Private Vehicular Access within Highway Limits*".
- 7) No development shall take place above damp course level until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. These works shall be carried out as approved prior to the first occupation of the development so far as hard landscaping is concerned and for soft landscaping, within the first planting season following the first occupation of the development or the completion of the development whichever is the sooner.

- 8) No development shall take place above damp course level until details or samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall thereafter be carried out in accordance with the approved details or samples.
- 9) No development shall take place above damp course level until details of all screen and boundary walls, fences and any other means of enclosure have been submitted to and approved in writing by the local planning authority. The development shall thereafter only be carried out in accordance with the approved details and the buildings hereby approved shall not be occupied until the details have been fully implemented.
- 10) Within the tree protected areas identified by the tree survey, driveways and temporary hard surfaces must be built entirely above existing ground level only where levels make this practical without any excavation. The surfaces shall comply with the guidance contained in "*APN12 Through the Trees to Development*". No cultivation or removal of topsoil shall take place within these protected areas.
- 11) Any tree or shrub which forms part of the approved landscaping scheme which within a period of five years from planting fails to become established, becomes seriously damaged or diseased, dies or for any reason is removed shall be replaced in the next planting season by a tree or shrub of a species, size and maturity to be approved by the local planning authority.
- 12) The scheme for parking, garaging and manoeuvring indicated on the submitted plans shall be laid out prior to the initial occupation of the development hereby permitted and that area shall not thereafter be used for any other purpose.