
Appeal Decision

Site visit made on 4 December 2017

by S Harley BSc(Hons) MPhil MRTPI ARICS

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

Decision date: 15th January 2018

Appeal Ref: APP/J0405/W/17/3181642

Land rear of 40-76 Quainton Road, Waddesdon HP18 0LP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by European Land Acquisition Ltd against Aylesbury Vale District Council.
 - The application Ref 17/00207/AOP is dated 20 January 2017.
 - The development proposed comprises demolition of existing properties and residential development of up to 90 dwellings.
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Decision

1. The appeal is dismissed and outline planning permission for demolition of existing properties and residential development of up to 90 dwellings on land to the rear of 40-76 Quainton Road, Waddesdon HP18 0LP is refused.

Procedural Matters

2. Notwithstanding the site address as described above, the western boundary of the appeal site also extends behind The Mill and appears not to adjoin the rear boundary of No 40.
3. The application was made in outline with all detailed matters other than access reserved for future consideration. I have considered the appeal on this basis, treating the submitted site layout plan as indicative of one of the ways in which the site could be developed.
4. Since the appeal was submitted, the Waddesdon Neighbourhood Plan October 2017 (the NP) has been made. I have taken this into account in my deliberations.

Background and Main Issue

5. The Council failed to reach a decision on the proposed development within the prescribed time limit, but has indicated in its Statement of Case that, had it determined the application, permission would have been refused for a number of reasons. In summary, these relate to: the location of the site in the open countryside where the development plan seeks to restrict residential development; the effect on the area and on the Waddesdon Conservation Area; the proposed access arrangements; the failure to make provision for contributions in relation to a variety of matters including affordable housing, off-site infrastructure and on site play space; and the lack of information regarding the archaeological interest on the site.

6. From all I have seen and read, I consider the main issue for this appeal to be whether or not the site is an appropriate location for residential development in the light of national and local planning policies and guidance having regard to:
- location and settlement hierarchy,
 - the effect on the character and appearance of the area and the Waddesdon Conservation Area,
 - the effect on green infrastructure and biodiversity,
 - whether safe and convenient access would be provided for all,
 - the effect on archaeological interests,
 - were the appeal to succeed, whether appropriate provision is secured to mitigate any adverse impacts on local infrastructure and,
 - the Council's Housing Land Supply and the implications for development plan policies.

Reasons

7. Planning applications and appeals should be determined in accordance with the development plan unless material considerations indicate otherwise¹. The development plan for Aylesbury Vale includes the Saved Policies of the Aylesbury District Local Plan 2004 (the LP), the emerging Vale of Aylesbury Local Plan Proposed Submission Plan September 2017 (the emerging LP) and the NP. The Government's National Planning Policy Framework (the Framework) is a material consideration. In accordance with Paragraph 216 of the Framework, the emerging LP carries, in my judgement, very little weight as it is at the early stages of the plan-making process. Although the LP is now time expired in terms of the period it was meant to cover, Saved Policies can be accorded weight according to their consistency with the Framework.

Location and settlement hierarchy

8. Waddesdon is fairly well served in terms of facilities and services, including a shop, doctor's and dentist's surgeries, schools, leisure facilities and public transport. The appeal site is some 3.3 hectares of agricultural land that adjoins the northern boundary of Waddesdon. It is not allocated for residential development in the LP or under Policy WAD2 of the NP. It is outside the Settlement Boundary for Waddesdon as defined in the NP and is therefore in open countryside for the purposes of planning policy.
9. Policy WAD1 of the NP seeks to restrict development outside the Settlement Boundary except in certain specified circumstances. I have seen no evidence to suggest that the proposal would fall into any of those specified circumstances. Nor does the proposal qualify under Policy RA14 of the LP, as it significantly exceeds the scale of five dwellings allowed for under that policy. I therefore conclude that the proposed development would undermine the adopted settlement strategy and conflict with Policies WAD1 and WAD2 of the NP.

¹ Section 38 of the Planning and Compulsory Purchase Act 2004

Character and appearance of the area

10. The village of Waddesdon is situated within the Waddesdon-Eythrope Parkland character area which is primarily an area of undulating landscape and is distinctive due to the parkland landscapes of Lodge Hill - Waddesdon Manor and Eythrope Park adjacent to the river Thame. The area is primarily rural and, outside of Waddesdon, is sparsely settled with scattered farmhouses and lodge houses associated with the two estates.
11. The appeal site comprises one field and part of another and is a peaceful quiet location. The land slopes gently northwards to open agricultural countryside beyond and there are expansive views from the site over the Vale of Aylesbury to the north and east. The lowest part of the site is the north-west corner, behind properties on Quainton Road. The site is substantially defined by mature hedgerows and trees on the perimeter. The public right of way WAD/4/1, which is part of a number of routes including the Aylesbury Ring, Bernwood Jubilee Way, the North Bucks Way and the Tramway Trail, crosses the site. To the south and west are mainly residential properties.
12. The NP identifies a number of Local Green Spaces as contributing towards residents' enjoyment through recreation, exercise, tranquillity and social events. The appeal site, together with other adjoining land, is designated as one such Local Green Space under Policy WAD14 (site viii) of the NP. This Policy generally resists development on such land and in this respect accords with paragraph 78 of the Framework, which states that local policy for managing development within a Local Green Space should be consistent with policy for Green Belts.
13. Currently that part of the footpath within the appeal site crosses an open field. This would be replaced by a route through a residential estate. The site's open agricultural character ensures an enjoyable experience of walking over the footpath across the field. Occupants of dwellings on Little Britain, Quainton Road and Anstey Close, as well as footpath users, enjoy the attractive views of the wider scenic landscape. As the footpath would be retained and the route could be adjacent to, or through open space, at detailed layout stage, I conclude the visual harm caused by the change in character would be limited to moderate. However, there would be a significant number of residential and footpath user receptors that would experience this adverse visual harm arising from the proposed development.
14. The proposal would replace open countryside and a substantial part of Local Green Space site viii with permanent suburbanising development. The change in the character and appearance arising from the type and scale of development proposed and the loss of the Local Green Space, lead me to conclude that the proposed development would have a significant harmful, albeit localised, effect on the character and appearance of the countryside. This would conflict with Policy WAD14 of the NP which seeks to protect the Local Green Space and Policy GP35 of the LP which states development should respect the characteristics of the site and its surroundings and the natural qualities and features of the area.

Waddesdon Conservation Area (the CA)

15. The appeal site includes Nos 44, 46 and 48 Quainton Road. These houses are in the CA. The Planning (Listed Buildings and Conservation Areas) Act, 1990,

requires that special attention is paid to the desirability of preserving or enhancing the character or appearance of conservation areas.

16. Waddesdon village is inextricably linked with the development of the Lodge Hill – Waddesdon Manor estate, and in particular the ownership of the Rothschild family. The CA is dominated by the gardens and parklands around Waddesdon Manor, but includes other 'identity' areas. The Quainton Road, Frederick, Wood and New Street village 'identity area' encompasses the properties that would be demolished. The key value of this particular 'identity area' lies in the strong regularity and uniformity arising from blocks of properties of similar form, massing, orientation and position of buildings within plots of similar widths and depths. Such regularity in 18th and 19th century development is often associated with large estates. Some of the properties on Quainton Road are former estate workers' dwellings and the owner of No 50 confirms that Nos 44-50 were built in the 19th century by the Waddesdon Estate as accommodation for their workers.
17. In Quainton Road, the rhythm created by the regularity of form and uniformity of appearance is apparent, despite modern alterations to individual buildings. This is the case whether or not the roads leading from the High Street are of "Lower Status" than roads elsewhere in the CA. Many buildings on Quainton Road are either terraced or semi-detached. The few detached buildings sit within relatively narrow plots with little space between them and their neighbours.
18. Nos 44, 46, 48 and 50 are a row of four terraced houses. Whilst the buildings themselves are not "Local Note Buildings" the row has heritage value as part of the historic linear street pattern. This would be rudely interrupted by the demolition of three of them, resulting in No 50 standing isolated and unduly prominent next to the proposed access. The setting of No 42, which is identified as a Local Note Building, would also be compromised by the gap that would be opened up beside it. This would be harmful to the established historical context and appearance of this part of the 'identity area'.
19. The proposed demolition would affect only a small part of the CA. Whilst I conclude that the harm caused to the significance of the CA as a heritage asset, taken as a whole, would, with reference to the Framework, be less than substantial, nevertheless it would be a real and serious harm. In this respect I conclude the proposal would conflict with Policies GP35 and GP53 of the LP; Policies WAD8, WAD9, WAD10 and WAD11 of the NP; and those principles of the Framework that seek to protect conservation areas.
20. There are no key vistas into the appeal site from the CA, or from the appeal site into the CA, in this part of Quainton Road. The proposed demolition would open up a view from the CA towards the open countryside. However, this would be along an access road serving a more modern pattern of development and out of character with the prevailing built up form of the CA. Accordingly this would attract little weight in favour of the proposal.
21. Paragraph 134 of the Framework says 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 benefit of the proposal. I address this in more detail later in this decision.

Biodiversity

22. Policy WAD14 states that Local Green Space site viii should be considered as a potential site for biodiversity enhancements and for allotments displaced from the housing allocation under Policy WAD2 of the NP. It seeks a Management Plan to address these matters as part of any proposal affecting the use of the site.
23. An ecological survey was carried out for the appellant in 2014. This is now some-what dated but informs two biodiversity enhancement schemes identified as relating to "Site 1" and "Site 2" respectively. These have been submitted by the appellant as part of the evidence relating to the appeal case before me. The evidence is not entirely clear, but it would appear that Site 1 and Site 2 together form the current appeal site.
24. The recommendations for both enhancement schemes rely in substantial part on biodiversity enhancements outside the development area proposed. It would appear that both schemes rely on the same piece of land for those enhancements and it is not clear to me that this would provide sufficient enhancement to replace biodiversity affected by the appeal proposal before me. Moreover, that piece of land is not included in the red line of the appeal site and no mechanism has been put forward for delivery of the proposed enhancement.
25. Retention of hedgerows, additional native planting and other measures within the site could be secured by condition but would not be extensive enough, in themselves, to provide sufficient biodiversity enhancement. There is no indication that the provision of allotments has been considered as part of the proposal. For the above reasons I conclude that the proposed development would not provide an appropriate biodiversity mitigation strategy and fails to provide for displaced allotments. In these respects it would conflict with Policies WAD13 and WAD14 of the NP.

Access

26. The proposed vehicular access would replace Nos 44, 46 and 48 Quainton Road. The Transport Assessment January 2017 (the TA) indicates that up to 87 additional dwellings would have the potential to generate about 400 vehicle movements (two way) per day. Concerns have been raised about the age and extent of the data provided but the Highway Authority does not raise issues in this regard. The carriageway width in the vicinity of the site is about 5.5m, widening to some 7m near the junction with the A41. The footways on either side of the road vary in width from about 0.5m to 1.5m. Quainton Road is a bus route.
27. On street parking restricts the two way flow of traffic for significant stretches of the carriageway. There are limited passing places and this can lead to inconvenience and/or the need for reversing of vehicles on the highway which can be unsafe. Those existing problems would, it seems to me, be exacerbated by the additional vehicle movements arising from the proposed development, increasing inconvenience for other road users, including bus drivers and passengers, and increasing the need for potentially unsafe manoeuvres on the highway due to the insufficiency of passing places.

28. There would also be significantly more pedestrians using Quainton Road as a result of the proposal. Due to the narrowness of the footway at certain points, this would be likely to lead to more pedestrians having to step into the carriageway, itself already constrained as set out above. There are no designated cycle facilities on Quainton Road and its narrowness, together with parked vehicles, constrains use by cyclists.
29. Most vehicle movements arising from the proposed development are likely to be along Quainton Road towards the junction with the A41 High Street to access local facilities or the wider highway network. The TA suggests that drivers would be unlikely to choose to travel along the intervening Wood Street as it is narrow and one way. However, it seems highly probable to me that drivers may choose this route to avoid manoeuvring along Quainton Road and to avoid traffic queues at its junction with High Street when vehicles seek to turn right onto the busy A41. As Wood Street is a narrow one way street, this could lead to congestion on both Wood Street and Quainton Road. In the absence of a detailed assessment of the capacity of the Wood Street junction with the A41 I cannot conclude with any degree of confidence that the vehicle movements arising from the proposed development could be safely and conveniently accommodated.
30. The proposed access to the development would be about 5.5m wide with 2m footways on either side. There are no parking restrictions on the opposite side of Quainton Road. Drawing 14013/101 Rev E in the TA shows relatively tight radii and, should vehicles be parked opposite, even with the 'minor re-alignment of the carriageway' as indicated, it would be likely to prove difficult for refuse/delivery vehicles to turn in and out of the proposed access. Moreover, given the scale of the Drawing, the limited dimensions thereon, the absence of a swept path analysis of the proposed junction, and as the red line showing the application site is not marked on the Drawing, it is difficult to be sure that the required width and radii could be accommodated within the site.
31. I acknowledge that bullet point 3 of paragraph 32 of the Framework indicates development should only be prevented on transport grounds where the residual cumulative impacts of development are severe. However, this does not negate the need to ensure that safe and suitable access can be achieved for all people, as set out in bullet point 2 of the same paragraph.
32. The TA recommends improving bus stops to promote the use of public transport, but doesn't indicate which bus stops or the measures that could be taken. The submitted Travel Plan indicates a range of measures that could be undertaken to promote travel by means other than the private vehicle. These are commendable and implementation of the Travel Plan could be secured by condition. Nonetheless, its failure to recognise the safety issues for cyclists traversing Quainton Road, and the lack of any mechanism to secure an upgrade to the footpath between the site and Little Britain, mean that I give it relatively limited weight in my considerations.
33. For the reasons set out above I cannot safely conclude that safe and convenient access would be available for all should the proposed development take place. Accordingly I conclude that the proposed development would be contrary to Policy WAD12 of the NP and to the Local Transport Plan 4², which together seek measures to promote walking, cycling and use of public

² The Fourth Buckinghamshire Local Transport Plan 2016-2036; April 2016

transport, the assessment of the impact of traffic flows on/off major thoroughfares, such as Quainton Road and High Street, and to ensure that the highway impacts of developments are mitigated so their effects are not severe.

Infrastructure

34. The need for infrastructure including: educational facilities; primary healthcare facilities; on-site equipped play areas, off site sport and leisure facilities; maintenance of open space and sustainable urban drainage systems; off-site highway works and mitigation measures; has been identified during consideration of the proposal. The appellant has indicated that these could be addressed by contributions secured by deed made under s106 of the Town and Country Planning Act 1990. However, in the absence of such a deed, there is no means of ensuring that the impact of the development on local infrastructure will be addressed. I conclude therefore, that the proposed development would conflict with Policies GP86, GP87, GP88, GP89 and GP94 which, together, seek to ensure that satisfactory infrastructure is available to meet the needs generated by development.
35. Policy GP2 of the LP requires that 30% of the dwellings on new developments should be affordable; Policy WAD3 requires 31%. The appellant states that a policy compliant level of affordable housing would be provided³. Whilst this would be a benefit of the proposal, without a mechanism for delivery I conclude the proposal conflicts with both of these Policies.

Archaeological interest

36. The proposal is accompanied by an Archaeological Geophysical Survey which indicates the possible presence of archaeological features on the appeal site. The County Council Archaeologist has raised no objections in principle. Were the proposal otherwise acceptable conditions could be imposed requiring submission, at reserved matters stage, of the results of further investigation together with a scheme for appropriate preservation and/or recording of finds. Accordingly I conclude that archaeological interests could be satisfactorily safeguarded in accordance with Paragraph 141 of the Framework.

Housing Land Supply

37. There is disagreement between the parties as to whether or not the Council can identify a five year supply of deliverable housing land and therefore, whether relevant policies for the supply of housing in the development plan are out-of-date, as described in paragraph 49 of the Framework.
38. The Council maintains that it has a supply of around nine years⁴ excluding unmet need. The appellant's position is that there has been a persistent under-delivery of housing in the District; there are numerous other factors including unmet need in adjoining areas to be taken into account; and that a colleague Inspector, in a recent appeal decision, found there was, at best, a 4.65 year supply and it could be as low as a 3.26 year supply⁵.
39. Even taking this 'worst case' view, there would be a housing land supply in the District of more than three years. The Written Ministerial Statement on

³ Paragraph 7.4 of the Appellant's Statement

⁴ Paragraph 6.3 of the Council's Statement

⁵ APP/J0405/W/16/3158833 also the Inspector in APP/J0405/W/16/3156690 found that a five year supply could not be demonstrated

Neighbourhood Planning, dated 12 December 2016 (the WMS) is a significant material consideration in this context. It states, among other things, that where a NP is less than two years old, and it allocates sites for housing, and the local planning authority can demonstrate a three-year supply of deliverable housing sites, then the relevant policies for the supply of housing in the NP should not be deemed to be out-of-date under paragraph 49 of the Framework. The Waddesdon NP meets these criteria.

40. This being so, I afford full weight to relevant policies for the supply of housing in the development plan and the tilted balance in favour of sustainable development set out in Paragraph 14 of the Framework does not apply.
41. The appeal site has been put forward as a potential residential site at various times during the development plan production process, and at times, has been considered as partially suitable for development⁶. However, this was subject to highway access not being taken from Quainton Road and, in any case, the site has not been carried forward as an allocation in the NP or in the emerging LP. I therefore afford this matter little weight in favour of the appeal proposal.

Other Matters

42. Representations have been made to the effect that the rights of occupants of adjoining dwellings under Article 8 of the European Convention on Human Rights, and Article 1 of the First Protocol to the Convention, as incorporated by the Human Rights Act 1998, would be violated if the appeal were allowed. As I am dismissing the appeal there would no violation of these rights.
43. I understand that the appeal proposal is of a reduced scale compared to alternative proposals⁷. However, I have reached my conclusions based on the planning merits of the proposal before me.
44. The appellant has expressed dissatisfaction with the way in which the Council and the Parish Council have handled the planning application. Third parties have expressed dissatisfaction with the way the appellant has handled the proposal, including the lack of pre-application consultation. Such matters are not, of themselves, material planning considerations. I have reached my conclusions based only on the planning merits of the case.
45. The owner of No 50 has expressed concern that its structural integrity would be undermined by the proposed demolition of the other houses. Had the proposal been otherwise acceptable I would have sought more evidence on this point.

Planning Balance and Conclusion

46. I have found that, whilst the harm to the heritage significance of the CA as a whole is less than substantial there would, nevertheless, be real and serious harm which is a consideration to which I am required afford significant weight. As required by paragraph 134 of the Framework I must assess the harm to the CA against the public benefits of the proposal.
47. The proposal would provide moderate benefits in terms of providing additional housing for the District. There would be the potential for a substantial benefit from the possibility of affordable or low cost housing, although no mechanism to secure that is before me. There would also be moderate economic benefits in

⁶ Including in the Housing and Employment Land Availability Assessment Jan 2017

⁷ Paragraph 2.12 of Planning Statement

terms of employment during construction and additional spending in the local economy by residents of the proposed dwellings. However, even taken together, and proceeding on the basis that the affordable housing provision could be secured, I consider that the harm that I have identified is not outweighed by the benefits of the proposed housing and the associated economic benefits on a site outside the settlement boundary.

48. I have found that the proposed development would undermine the adopted settlement strategy; that there would be material harm to the local open rural countryside character and appearance of the area and to the CA; appropriate biodiversity mitigation or allotments would not be provided; safe and suitable access would not be provided for all and there is no mechanism for the delivery of necessary infrastructure or affordable housing. For the reasons set out above, and in failing to meet the requirements of Policies WAD1, WAD2, WAD3, WAD8, WAD9, WAD10, WAD11, WAD12, WAD13 and WAD14 of the NP; Policies GP2, GP35, GP53, GP86, GP87, GP88, GP89 and GP94 of the LP and the aims of the Local Transport Plan 4 the proposal does not comply with the development plan taken as a whole.
49. Paragraph 17 of the Framework emphasises the principle of a plan-led system. Even taking account of the benefits set out above, I do not consider there to be any material considerations that would warrant a decision other than in accordance with the development plan. I therefore conclude, on balance, that the appeal should not succeed.

S Harley

INSPECTOR