



Appeal Decision

Site visit made on 11 June 2019

by D. Szymanski, BSc (Hons) MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th July 2019

Appeal Ref: APP/J0405/W/19/3224568

Fairhaven, Main Street, Padbury, MK18 2BJ

- 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 Christopher McNally against the decision of Aylesbury Vale District Council.
 - The application Ref: 19/00042/APP dated 6 January 2019, was refused by notice dated 4 March 2019.
 - The development proposed is described as the erection of an agricultural building on land to the rear of and adjacent to Fairhaven, Main Street, Padbury, MK18 2BJ.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the proposed development upon the significance of the Padbury Conservation Area as a development within its setting;
 - Whether there is a requirement for a legal agreement to secure a safe and suitable access to the proposed development.

Procedural Matters

3. The appellant has submitted plan reference 18-30-02 Rev B with this appeal, which was submitted to the Council on 25 February 2019. The Council determined the application based on plan reference 18-03-02 Rev A. In my opinion the re-positioned building on plan reference 18-30-02 Rev B is a significant and material change to the plan upon which the Council has reached its decision. Therefore, this appeal is determined on the basis of plan reference 18-03-02 Rev A.

Reasons

Effect upon a Heritage Asset

4. The appeal site is composed of a dwelling and its curtilage (known as Fairhaven) fronting onto Main Street, as well as approximately 3.7 hectares of mainly pasture land to the rear (lying south and west of Padbury Village). To the south, east and west the pasture land gently slopes up out of the valley to be bound by mature hedgerows and trees. Although some of the pasture is

behind properties fronting Main Street, the spaces between properties and the topography means it provides a strong and verdant setting to the Padbury Conservation Area (the PCA). The southern garden boundaries of the properties fronting Main Street form the southern PCA boundary. The proposed building would be located on the pasture, just to the south of residential gardens, outside of the PCA boundary.

5. Planning permission exists for the appellant to construct a replacement two storey dwelling within the residential curtilage (Ref: 17/00939/APP and 18/01703/APP, the latter being allowed on appeal).
6. The National Planning Policy Framework (the Framework) requires when considering the impact of a development upon a heritage asset great weight should be given to its conservation. It also states that harm to the significance of a designated heritage asset can also derive from development within its setting. In Chapter 3 of the Padbury Conservation Area Appraisal (the PCAA) it explains the special characteristics and features of the PCA, which includes the landscape setting that the valley provides (on which the appeal site is located). It is apparent that historically the valley has restricted development on Main Street, resulting in linear development that creates a strong visual axis and strong feeling of containment. The containment is reinforced by glimpsed views between buildings on the southern side of Main Street through which the rising valley sides are apparent.
7. The valley and pastoral landscape setting is considered to make an important contribution to the significance of the PCA, particularly to the south of Main Street. Views of the proposed development would be possible at a number of points in the PCA (including from parts of Main Street, Station Road and Old End) which would interrupt and restrict existing views and legibility of the valley landscape. Therefore, by reason of its siting and scale, the development would impact upon an element of the setting that makes a positive contribution to the PCA, such that it would harm its significance. In my judgement this would amount to less than substantial harm which under paragraph 196 of the Framework should be weighed against the public benefits of the proposal.
8. The appellant has cited paragraph 83 of the Framework explaining that the proposed barn would result in a tidier appearance of the land because it could house paraphernalia, vehicles, feed, etc. stored on the land. It appears the size of the holding is such that it is unlikely the materials necessary for operating the holding, would cause such harm as the building in its proposed location. Therefore, on the basis of the evidence before me, this and any other public benefits of the scheme would not outweigh the harm to the PCA.
9. For the reasons set out above the development would be contrary to Policy GP35 of the Aylesbury Vale District Local Plan (2004) (AVDLP) and Policy E9 of the draft Vale of Aylesbury Local Plan (VALP) which seeks development minimises impacts upon, respects, and complements the characteristics of the site and surroundings. The development would also be contrary to Policy GP53 of the AVDLP and paragraph 196 of the Framework because the harm to the significance of the heritage asset as consequence of the impact upon its setting, is not considered to be outweighed by the public benefits.

Access

10. The respective schedules of planning conditions attached to permission Ref: 17/00939/APP and 18/01703/APP, each require the construction and retention parking areas and boundary treatments that, if implemented, would prevent the appeal development being accessed as proposed by the appellant. As a consequence, the Council states that had it found the development acceptable, it would have required the applicant to enter into a legal agreement, to only implement one of the three permissions, due to the conflicts.
11. The appellant has acknowledged this and attempted to remedy the matter by seeking a Non-Material Amendment. The Council has determined the matter cannot be treated as a Non-Material Amendment and will require a new formal planning application. In the appellant's final comments, it is indicated he does not intend to implement either the 2017 or 2018 permissions and would accept a planning condition. However, it is unlikely that a planning condition could be used to revoke an existing planning permission.
12. In the absence of a suitable planning obligation to ensure that only one planning permission is implemented, the situation regarding accessing the proposed development and the previously approved schemes remains unresolved. This adds to my concerns about the acceptability of the proposal.

Other Matters

13. In support of the proposal, the appellant points out that the Council does not object to the principle of an agricultural building and has made reference to dismissed appeal reference 3135457 (for 15 dwellings). Amongst other matters, the decision letter references the previously approved agricultural building, and the Inspector comments that the principle of such a building would be more in keeping with the rural character of the appeal site, than the 15 dwellings. The appellant states that the building would have been visible from the PCA.
14. I note that the previous Inspector opined that in principle an approved agricultural building is likely to be more in keeping with the rural area than 15 dwellings. However, I have no details of the previously approved agricultural building, or its impacts upon the significance of the PCA, which in any event has now lapsed. I have considered this proposal on its own merits and on the basis of the information before me. I do not consider the matters raised by the appellant override the harm I have found.

Conclusions

15. For the reasons set out above, and having regard all other matters raised, I conclude that the appeal should be dismissed.

Dan Szymanski

INSPECTOR