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## Appeal Decision

Hearing Held on 13 August 2019

Site visit made on 13 August 2019

**by Andrew Smith BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 06 September 2019**

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**Appeal Ref: APP/J0405/W/18/3213620**

**Land at Ickford Road, Shabbington, Buckinghamshire**

- 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 planning permission.
  - The appeal is made by Steven Kerry on behalf of Rectory Homes Ltd against Aylesbury Vale District Council.
  - The application Ref 18/00194/APP is dated 17 January 2018.
  - The development proposed is erection of 14no. two-storey residential dwellings and 3no. bungalows (Use Class C3) and creation of new areas of public open space, with access off Ickford Road, including parking and garaging, landscaping and all enabling and ancillary works.
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### Decision

1. The appeal is dismissed, and planning permission is refused.

### Procedural Matters

2. Had the Council been in a position to determine the application it would have been refused for reasons related to landscape character impact, access to facilities and services and the absence of a legal agreement to secure various contributions. Following the submission of a signed and dated Unilateral Undertaking (the UU), the Council did not pursue its third reason for refusal relating to the absence of a legal agreement. The UU secures affordable housing provision, open space and sustainable drainage system provision, bus stop improvements, an off-site sports and leisure facilities contribution and an education contribution. There is also a schedule in the UU that relates to the transfer of land within the site to the Parish Council for the potential future development of a village hall for public use. I shall return to the UU later.
3. The emerging Vale of Aylesbury Local Plan (the VALP) was submitted by the Council for examination in February 2018. The parties agree, and I have no reasons to disagree, that the VALP is at a stage that attracts limited weight.

### Main Issues

4. The main issues are:
  - The effect on the character and appearance of the area, including landscape character and visual impact; and
  - Access to facilities and services.

## Reasons

### *Character and appearance*

5. The appeal site is accessed off Ickford Road and situated adjacent to the edge of the village of Shabbington and is made up of a sizeable area of predominantly grassed land. To the south and west, where the site's boundaries are typified by the presence of mature hedgerows, the site's surroundings are rural and characterised by the presence of agricultural fields. The site adjoins various rear boundaries associated with residential properties that front Ickford Road to the north and that front Dukes Close to the east and is sloped in nature, gradually falling away in an approximate western direction.
6. The site is located in the 'Peppershill Arable' landscape character area (LCA), which, whilst variable in its landscape quality, is characterised in-part by the presence of strong hedgerows that align with historic field patterns. Notwithstanding its location close to the edge of the LCA, the appeal site is reflective of these overarching attributes. Existing hedgerow boundaries to the west and south of the site would be retained alongside the proposed development and the site is not considered to represent a valued landscape.
7. The appeal site is inherently rural in its character and appearance. Whilst the site is positioned adjacent to the settlement and has an immediate neighbouring relationship with adjoining residential plots and their variant rear boundary treatments, it does not read as a part of the settlement's edge. The site's subdivisions, particularly given the relatively discreet nature and appearance of the fencing, do not place the site at odds with the character of the adjoining field network to the south and west of the site. Indeed, the site, including its small compound of agricultural buildings, reads as a part of this network of surrounding rural fields.
8. Historic maps of the village demonstrate that, whilst the village initially progressed along the main roads that run through the village, the settlement's pattern has altered in more recent years through the introduction of infill development and development at depth. Indeed, the dwellings served by Dukes Close can be observed to represent development at depth relative to Ickford Road and planning permission<sup>1</sup> has been granted for a further 8 dwellings on land situated to the south of Dukes Close. Shabbington's settlement pattern is thus now more irregular and less linear than it once was.
9. However, the village's approaches continue to be, in the most part, typified by linear and often sporadic patterns of development. Indeed, existing development along Ickford Road in the vicinity of the site provides a gradual transition between open countryside to the west and the more compactly developed core of the village to the east. Notwithstanding the proposed open space on the site, the proposal would bring the western built edge of settlement, currently defined by Dukes Close, forward by a noticeable distance to effectively remove this gradual transition.
10. The Landscape and Visual Impact Assessment (the LVIA) identifies significant visual effects from a variety of locations around the site but notes that these would predominantly be confined to the site and its immediate setting and, as such, would be localised. To some extent I agree that significant harmful

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<sup>1</sup> 17/02204/APP

visual effects would be tempered/confined (although not removed) as a result of the site's particular characteristics and surroundings. For example, views of the site are heavily filtered by intervening buildings when viewed from the north and east such that the most pertinent effects in a visual context would be experienced in a private context by the relatively limited number of residential occupiers of these buildings. I also note the planned development of 8 dwellings to the south east of the site and the presence of a number of robust hedgerow boundaries, which would influence/restrict views from southern orientations.

11. The development's visual effect when seen from various locations along Ickford Road and parts of the public rights of way network situated to the west of the site would not be accurately described as localised. The rising ground level of the appeal site (from west to east) is readily observable from a variety of western vantage points set away from the site. Indeed, when stood at viewpoints 4 and 12 (as set out in the LVIA) I was able to clearly distinguish the grassed base of the appeal site. I consider this to be a clear indication that the development would sit prominently and have a significant visual effect when viewed from a range of western viewpoints, including various locations along Ickford Road upon the approach into the village that would be experienced by a high number of receptors on what would be expected to be a regular basis.
12. When viewed from the west, the development would be seen against the backdrop of existing lighting associated with Shabbington and, more specifically, the backdrop of Dukes Close properties that would be set at a slightly higher overall height when compared to the 2 storey dwellings proposed. It is also the case that the density of the development would not appear at odds when compared to, and read alongside, existing neighbouring developments. These considerations do not however justify the introduction of further significant, readily visible and urbanising development to the western foreground of the village.
13. Supplemental landscaping is proposed to the site's western boundary. But this would take time to properly establish and would not, in any event, allow the development to integrate effectively with its receiving environment. Whilst the individual dwelling designs and palette of external facing materials appear suitable, and plots 15-17 would be outward rather than inward facing so as to positively address what would be a newly formed edge to the settlement, my fundamental concerns associated with the quantum and prominence of development would not be suitably mitigated.
14. The proposal would thus provide an abrupt and uncharacteristic relationship between the village and its surrounding rural landscape. Given that the site reads as part of the surrounding field network rather than as a part of the settlement's edge, the proposal, would have a significant adverse effect upon the landscape character of its wider surroundings. It would also have a prominent harmful visual impact. This is particularly when viewed from Ickford Road, which is an important and regularly used approach into the village.
15. For the above reasons, the proposal would cause harm to the character and appearance of the area. The proposal conflicts with saved Policy GP35 of the Aylesbury Vale District Local Plan (January 2004) (the AVDLP) in so far as it seeks to ensure that the design of new development proposals should respect

and complement the physical characteristics of the site and the surroundings, the natural qualities and features of the area and the effect on important public views and skylines.

*Access to surrounding facilities and services*

16. Shabbington is a village that provides few facilities and services. These include a public house, a recreation ground, a church and a village hall. It is defined as a 'smaller village' in the Council's Settlement Hierarchy Assessment (September 2017) (the SHA). These are settlements considered not to be sufficiently sustainable to accommodate further significant development because of the limited range of services and facilities they provide. However, the SHA acknowledges that a small level of development in such settlements is unlikely to lead to any environmental harm as there is already built form and such development would contribute towards providing locally needed homes for families to remain in the same communities and contribute to vitality.
17. The SHA's primary aim is to determine the capacity of individual settlements within the District to accommodate sustainable development. Whilst it forms part of the evidence base for the VALP and only limited weight can be afforded to the VALP's emerging policies, the SHA is a material consideration.
18. Notwithstanding the limited array of facilities and services contained within Shabbington itself, there are larger settlements sited relatively close by that provide a greater range of amenities. These include Ickford to the west, which contains a village store, post office and primary school. However, its facilities and services are relatively narrow and would not serve the day-to-day needs of potential future occupiers of the development
19. In any event, Ickford is located approximately 1.6km to the west/north west of the site and is connected, in part, via Ickford Road which is not lit and not served by footway for the majority of its extent between Shabbington and Ickford. Although a National Cycle Route, the road does not provide specific facilities for cyclists, such as a defined lane for their use. An alternative route that connects the two settlements is via the network of public rights of way that are in place. However, these rights of way are not lit or hard surfaced. Either walking or cycling to Ickford would be unlikely to represent an attractive option for future occupiers of the development, particularly when factoring in the noteworthy distances involved.
20. A wider array of facilities and services are contained within the settlements of Long Crendon and Thame and could cater for the day-to-day needs of future occupiers of the development. However, their distance from the appeal site does not lend these settlements to being considered walkable and raises questions about their realistic suitability for being cycled to and from.
21. The appellant has referred to both Long Crendon (approximately 3.7km away from the site) and Thame (its High Street is located approximately 4.8km away) being within a nationally defined guideline acceptable cycling distance. However, the route to Long Crendon is not lit or served by any specific facilities for cyclists, or even a footway once outside the village. I acknowledge the National Cycle Route designation of the route from the site to Thame. Indeed, a notable proportion of this route is served by a shared footway/cycle lane. It is however also the case that a significant stretch of the route (closest to Shabbington) is both unlit and not pathed. Whilst the route to Thame is

- evidently cyclable, given the distance this would not be an attractive option for occupiers of the development to serve their day-to-day needs.
22. There are bus stops on Ickford Road conveniently located to the site. These offer direct services to several nearby settlements, including Long Crendon, Thame and Aylesbury. Whilst these services would provide occupiers with access to services by means other than the private car, they are infrequent.
23. In light of my findings with respect to the walkability and cyclability of surrounding settlements, future residents of the development would be heavily reliant on this limited bus service provision should they wish or require to access surrounding facilities and services by means other than via private travel modes. Indeed, given the service limitations, it would be unlikely that future occupiers of the development would seek to, or be conveniently able to, depend on the bus services to serve their day-to-day needs. The proposal's location would promote private modes of transportation, which raises particular concerns here due to the not insignificant extent of development that is proposed. The future occupation of 17 dwellings in this rural location would have a cumulative adverse effect and would lead to an unsustainable form of development.
24. I note that the appellant has referred to a planning application<sup>2</sup> submitted in 2016 with respect to land situated to the rear of Morton King Close in Shabbington. This application, which was for 16 dwellings, was refused due, in part, to the settlement having poor access to facilities and services. Whilst the decision was made by Members contrary to their officers' recommendation, the outcome reflects the Council's formal position when determining the application. Accordingly, this case is of limited relevance and, in any event, I must consider the proposal before me on its own merits.
25. The appellant refers to several appeal decisions on proposals for relatively similarly sized housing developments situated at other comparably sized settlements within the District to demonstrate the suitability of the scale of development proposed here. Each smaller village will have different characteristics, varying levels of facilities and services and differing connections and relationships with neighbouring larger settlements. It remains the case that I must assess the appeal proposal based on its individual merits.
26. An appeal decision<sup>3</sup> with respect to a site in Ickford is of limited relevance given the greater level of facilities and services immediately available to its villagers compared to Shabbington.
27. The National Planning Policy Framework (February 2019) (the Framework) says that sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in decision-making. In this context, notwithstanding the various connectivity constraints discussed above, Shabbington has the potential to accommodate some limited growth. That said, the Framework indicates that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. Here, taking into account Shabbington's limited size and narrow array of facilities and services, the scale of development proposed would represent a significant addition to the

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<sup>2</sup> 16/03625/AOP

<sup>3</sup> APP/J0405/W/17/3189919

settlement and, for the reasons set out above, a genuine and fully practicable choice of transport modes would not be provided.

28. The appeal site is not suitable for the development given its location. The proposal has the potential to increase travel by private modes of transportation, which sits uncomfortably alongside the Government's objectives of delivering sustainable development in a planned and coordinated manner. The scheme would thus cause material harm by virtue of the site not representing an appropriate location for housing, with particular regard to access to surrounding facilities and services. The proposal conflicts with the Framework in so far as it promotes the achievement of sustainable development.

### **Other Matters**

29. A signed and completed Unilateral Undertaking under Section 106 of the Act was submitted by the appellant at the Hearing. Given that I have found the proposal unacceptable for other reasons, it is not necessary for me to consider the UU in full.
30. With respect to affordable housing, the level of provision secured through the UU (5 dwellings) is compliant with the requirements of Policy GP2 of the AVDLP. This policy requires the decision maker to assess proposed developments taking into account a variety of matters including the need locally for affordable dwellings. It is not disputed by the Council that a high level of affordable housing need exists across the District. Furthermore, the appellant's submission that a specific local need (of around 6 units) exists in Shabbington has not been refuted.
31. I have noted objections/concerns raised by various interested parties, including with respect to flooding and highway safety. However, in light of the above conclusions, it is not necessary for me to explore these matters further.

### **Planning Balance**

32. The Council has accepted that, whilst it can show a five-year supply of deliverable housing sites, the relevant policies for the supply of housing are out of date as the AVDLP is time expired. The tilted balance as set out under paragraph 11 of the Framework therefore applies.
33. The social benefits associated with the provision of 5 affordable dwellings are significant and attract significant weight. This is particularly the case given that a high level of need exists in the District as well as potentially in the site's immediate locality.
34. Notwithstanding the Council's current housing land supply position, the proposal would deliver 17 additional housing units of various types and sizes consistent with the Framework's objective of significantly boosting the supply of homes. Whilst this housing could be delivered quickly, this benefit attracts limited weight given the modest number of dwellings when considered in the context of District-wide housing requirements. The scheme would generate associated jobs during the construction phase and expenditure in the local economy following occupation. These benefits attract limited weight given the anticipated short-term nature of the construction jobs and the limited opportunities for expenditure to occur in the immediate vicinity of the site or via sustainable travel methods.

35. There would be anticipated to be limited biodiversity benefits associated with the additional landscaping proposed alongside the anticipated provision of bird and bat boxes, to which I attach limited weight.
36. The UU would deliver publicly accessible open space and the transfer of land for the potential development of a village hall. As set out in the Framework, planning obligations must only be sought where they are necessary to make the development acceptable in planning terms, directly related to the development and are fairly and reasonably related in scale and kind to the development. The site layout shows that the open space would primarily be of benefit to future occupants of the scheme itself rather than the wider local community. Furthermore, whilst the space would be publicly accessible, there is no evidence to suggest that there is an identified local need for additional open space. I therefore afford this benefit limited weight in the planning balance.
37. As to the intended transfer of land, the Parish Council are not beneficiaries to the UU. This raises significant doubts about the enforceability of various terms contained within the UU. In any event, there is no certainty that a village hall would be developed given that separate planning permission would be required and that there is no clear commitment from the Parish Council to seek to proceed with such a project. Given the doubts over the enforceability of the agreement in this respect, I have not taken into consideration (in the planning balance) the transfer of land for the potential development of a village hall.
38. Notwithstanding the benefits of the proposal, there would be significant harm to the character and appearance of the area contrary to AVDLP Policy GP35. The scheme would also cause material harm by virtue of the site not representing an appropriate location for housing, with particular regard to access to surrounding facilities and services. Given the scale of development proposed in a settlement with Shabbington's characteristics and limited array of facilities and services, this is harm that I apportion significant weight to. The proposal fails to accord with the development plan when read as a whole.
39. The harm identified significantly and demonstrably outweighs the proposal's benefits when assessed against the Framework's policies taken as a whole. The presumption in favour of sustainable development, as set out in the Framework, does not apply therefore.

### **Conclusion**

40. For the above reasons, the appeal is dismissed.

*Andrew Smith*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT

|                                  |                           |
|----------------------------------|---------------------------|
| Steven Kerry                     | Rectory Homes             |
| Tim Northey                      | Rectory Homes             |
| Ben Wright BA(Hons), DipLA, CMLI | Aspect Landscape Planning |

### FOR THE LOCAL PLANNING AUTHORITY

|                  |                                        |
|------------------|----------------------------------------|
| Laura Ashton     | Major Developments Consultant          |
| Jonathan Bellars | Landscape Architect and Urban Designer |

### INTERESTED PERSONS

|                |                            |
|----------------|----------------------------|
| Alan Powell    | Shabbington Parish Council |
| Simon Eastmond | Local resident             |
| WG Jones       | Local resident             |

## **DOCUMENTS RECEIVED AT THE HEARING**

1. Unilateral Undertaking dated 13 August 2019