



Appeal Decision

Site visit made on 12 August 2019

by David Carter BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 September 2019

Appeal Ref: APP/J0405/W/19/3229920

Rose Barn, Gibraltar, Aylesbury, Buckinghamshire HP17 8TY

- 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 Matthew Smith against the decision of Aylesbury Vale District Council.
 - The application Ref 19/00515/APP dated 28 February 2019, was refused by notice dated 11 April 2019.
 - The development proposed is proposed new dwelling and garages with demolition of buildings associated with lawful builder's yard.
-

Decision

1. The appeal is allowed and planning permission is granted for the proposed new dwelling and garages with demolition of the buildings associated with lawful builder's yard in accordance with the terms of the application, Ref 19/00515/APP, dated 28 February 2019 and subject to conditions contained within the attached Schedule.

Main Issues

2. The main issues are whether the appeal proposal:
 - (i) represents an appropriate location for the development; and
 - (ii) is acceptable having regard to the character and appearance of the surrounding area including the Conservation Area.

Reasons

Location

3. The appeal site is located within the hamlet of Gibraltar. It is currently in use in part as a builder's yard, including open storage, as well as permanent and temporary structures. The site is also used in part as outdoor amenity space for Rose Barn, an existing dwelling. The appeal site lies within the Dinton, Westlington, Upton and Gibraltar Conservation Area (CA). Gibraltar is physically separated from the nearby village of Dinton by a paddock at the junction of the A418 with New Road which is a short distance from the appeal site.
4. The Council accepts that there is not an up-to-date local plan. Therefore, they have primarily relied on the policies set out in the National Planning Policy Framework (the Framework) and, in particular, whether the proposed development represents sustainable development given its rural location. The

Council consider that many of the policies in the Aylesbury Vale District Local Plan (LP, 2004) remain consistent with the Framework, including some saved policies, but recognise it is no longer up-to-date in relation to spatial strategy, settlement boundaries or the supply of housing. The emerging review of the development plan, the draft Vale of Aylesbury District Local Plan, including its evidence base is at an advanced stage. However, I have not been provided with sufficient information on its latest position together with the nature of any unresolved representations. As such in this appeal it can be afforded only limited weight. Consequently, the main parties agree that the provisions of paragraph 11d) of the Framework relating to the presumption in favour of sustainable development is engaged.

5. The main parties agree that positive, albeit limited, impacts would arise in relation to economic benefits and delivering housing. There is also agreement of either no harm or neutral effect in relation to: impact on agricultural land; trees and hedgerows; conservation and enhancement of historic environments, including the Conservation Area and nearby Listed Buildings; meeting the challenge of climate change and flooding and; support for high quality communications.
6. The main parties disagree on the issue of accessibility to and likely use of private motor vehicles to access services and amenities, including those in nearby Dinton; due to the distances involved and the need to cross the A418. In my judgement the appeal site does benefit from easy access to good quality public transport services to a level that would surpass those in most rural areas. It is also possible to access the reasonable range of local services and amenities by walking or cycling. While it is true that some people may choose to use a motor vehicle for those types of trips the same applies elsewhere.
7. Services and amenities are available within Dinton, with the pub being the only community facility in Gibraltar. A single dwelling would have a limited positive impact because the occupiers would most likely use some of the local facilities helping contribute to their sustainability.
8. In relation to the achievement of well-designed places I am satisfied that the appeal proposal is appropriate for the site and surroundings. Furthermore, the new buildings are located away from nearby properties which means there would be no harm to living conditions of existing and future occupiers. The proposal would also result in the removal of unsightly buildings and paraphernalia associated with the current use as a builder's yard which would enhance the area. The appeal site is also very well screened, particularly from the A418, which means there would be a very limited visual impact.
9. In light of the above the appeal proposal would represent an appropriate location for development. I find that the appeal proposal would be consistent with paragraphs 77 – 79 of the Framework regarding the provision of rural housing.

Character and appearance

10. As noted above the appeal site is located in a CA and, as such, it is necessary to consider the statutory duty in s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the area. The part of the CA covering the hamlet of Gibraltar is detached from the main

part which covers Dinton, Westlington and Upton. I note from the Conservation Area Appraisal that Gibraltar probably originated from a single farmstead and the Bottle and Glass public house. The hamlet has grown over the last 150 years with the most historic buildings accessed off a single drive. There are several modern buildings in the CA including Rose Barn. Apart from the cluster of buildings the Gibraltar part of the CA includes a significant amount of open land including several isolated buildings mainly to the south of the A418. Open countryside, which is defined as an Area of Attractive Landscape, surrounds the CA.

11. In terms of impact on the CA, the Council suggest that the construction of the appeal proposals would fill a green space identified in the Conservation Area Appraisal. That appraisal, however, was prepared prior to use of part of the site as a builder's yard. I also note that the Council has accepted that the appeal proposal has a neutral impact on the CA. The new buildings would be on land which is also within, or at least directly and clearly attached to built-up uses. The site is already developed and the removal of the builder's yard would enhance the CA. Overall, I find that the appeal proposal would have a neutral effect thereby preserving the character and appearance of the CA.
12. I do not share the Council's concerns relating to the size and positioning of the new dwelling and garage block or the impact of the development on the landscape. I note that there is already a fall-back position where a 3-garage block already has consent. The proposed garage block would also help screen views of the new dwelling from the east. There is no doubt in my mind that the potential impact of the proposal is significantly reduced by the existing substantial screening.
13. It follows from the above analysis that the appeal proposal would not have an adverse impact on the character and appearance of the surrounding area or the Dinton, Westlington, Upton and Gibraltar Conservation Area. Consequently, the appeal proposal is of high quality which is consistent with Policies GP.35 and RA.8 of the LP. These policies seek, amongst other things, a high quality of design in new development which is appropriate to its context.

Other Matters

14. Several recent appeal decisions have been referred to in evidence, but I am satisfied that the circumstances in those cases are different in terms such as the scale of development proposed, the detailed nature of the proposals and their impact on character and appearance and differing views in respect of access to local services and facilities as well as sustainable transport. Accordingly, I have come to a decision on this appeal on its own merits but note that my views in relation to access to local services and the availability of sustainable transport options generally concur with the Inspector's views in APP/J0405/17/3173201. The site of that appeal is nearby, on the opposite side of the A418.

Conditions

15. The Council has suggested 10 conditions and, the appellant has taken the opportunity to comment during the appeal process. I have considered these matters in relation to the Framework and the PPG, amending where necessary in the interests of precision and avoidance of duplication. All conditions are considered to be reasonable and necessary to make the approved development

acceptable. I have received confirmation from the appellant they are agreeable to the pre-commencement condition 4.

16. Condition 1 refers to the standard time limit with condition 2 defining the plans with which the scheme shall accord. This will provide certainty regarding the scope of the permission. To safeguard the character and appearance of the area it will also be necessary to require the submission of details of materials (condition 3), slab levels (condition 4) and a hard and soft landscaping scheme (conditions 7, 8 and 9).
17. Conditions 5 and 6 cover access and parking including the upgrading of the existing access onto the A418 in accordance with the Highway Authority's requirements.
18. Finally, the Council requested that a condition withdrawing permitted development rights should be applied. Since the proposed new dwelling would be some distance from neighbouring properties I do not consider such a condition to be appropriate in these circumstances.

Conclusion

19. For the reasons stated above the appeal is allowed, subject to conditions.

David Carter

INSPECTOR

SCHEDULE OF CONDITIONS (10 in total)

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

 Proposed floor and elevations (Drawing No.6A)
 Location, block plan, garage elevations and floor plan (Drawing No.7A)
- 3) No development above damp-proof course shall take place on the dwelling hereby permitted until samples/details of the materials proposed to be used on the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out using the approved materials.
- 4) No development shall take place until details of the proposed slab level of the building in relation to the existing and proposed levels of the site and the surrounding land have been submitted to and approved in writing by the Local Planning Authority, with reference to fixed datum point. The building shall be constructed in accordance with the approved details.
- 5) The scheme for parking 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.
- 6) Prior to the occupation of the development the existing access shall be upgraded and the initial 5m shall be constructed in a hard-bound material.
- 7) The dwelling hereby approved shall not be occupied until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. For hard landscape works, these details shall include; car parking layouts; other vehicle and pedestrian access and circulation areas and hard surfacing materials. For soft landscape works, these details shall include new trees and trees to be retained showing their species, spread and maturity, planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities. These works shall be carried out as approved prior to the first occupation of the development so far as hard landscaping is concerned and the hard landscaping shall be retained as approved thereafter, 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) 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.
- 9) Prior to the first occupation of the dwelling hereby permitted, details of all screening and boundary gate, walls, fences and any other means of enclosure shall have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the

approved details and the dwelling hereby approved shall not be occupied until the details have been fully implemented and thereafter retained as approved.

10) Prior to occupation, details of biodiversity enhancement comprising two integrated bat boxes shall have been submitted to and approved in writing by the Local Planning Authority. These shall be incorporated into the dwelling on the southerly aspects / orientation, located as high up as possible (i.e. at the gable apex or at eaves) and retained thereafter. The south east facing gable end is a suitable location. The development hereby permitted shall not be occupied until the bat boxes have been installed/constructed in accordance with details to be provided on a plan.

End of Schedule