The Planning Inspectorate

Appeal Decision

Inquiry Held on 3 – 5 September 2019

Site visit made on 3 September 2019 and 5 September 2019

by Rory Cridland LLB(Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 30th September 2019

Appeal Ref: APP/J0405/W/19/3227565
Land adjacent to 80 Chilton Road, Long Crendon, 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 outline planning permission.
- The appeal is made by Gladman Developments Ltd against Aylesbury Vale District Council.
- The application Ref 18/04337/AOP, is dated 30 November 2018.
- The development proposed is outline planning permission for up to 65 residential dwellings, introduction of structural planting and landscaping, informal public open space and children's play area, surface water flood mitigation and attenuation, as well as a vehicular access point from Chilton Road and associated ancillary works.

Decision

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

Preliminary Matters

2. The application was made in outline with all matters other than access reserved. I have determined the appeal on that basis, treating all plans as indicative insofar as they relate to matters of landscaping, layout, scale and appearance.

3. The emerging Vale of Aylesbury Local Plan 2031-2033 (VALP) is currently at an advanced stage, with the Council preparing to consult on the proposed modifications. However, I have limited information on the number of unresolved objections. Furthermore, neither party has sought to rely on any of its policies and they agree that it should be afforded only limited weight. I concur with that assessment and, accordingly, have afforded the VALP only limited weight in the determination of this appeal.

4. The parties have drawn my attention to a previous appeal decision on this site for what was a substantially similar proposal[1] (the "Previous Appeal Decision"). I have had regard to the Previous Appeal Decision in my determination of this appeal.

Background and Main Issues

5. The appeal is against the failure of the Council to give notice within the prescribed period of a decision on an application for planning permission. However, the Council confirmed in its written evidence that, had it been in a position to determine the application, it would have refused permission for

[1] Appeal Reference: APP/J0405/W/16/3142524

reasons relating to the site's location outside the recognised settlement boundary for Long Crendon and a failure to secure the planning obligations necessary to make the development acceptable in planning terms. In addition, during the course of the appeal, the Council indicated that it also had concerns with the effect that the proposal would have on the character and appearance of the surrounding area, including the landscape and identified key views.

6. However, the appellant submitted a duly executed Unilateral Undertaking during the course of the appeal which secures the necessary planning obligations and which the Council confirmed addressed their concerns. As a result, the Council no longer wishes to maintain its objection in relation to those matters. I have no reason to conclude otherwise.

7. Accordingly, the main issues in dispute are:

   (i) whether the site offers an acceptable location for the proposed development having regard to local and national planning policy; and

   (ii) the effect of the proposal on the character and appearance of the surrounding area, including the landscape and key views.

Reasons

Location

8. The development plan for the area consists of the Aylesbury Vale District Local Plan[2] (AVDLP) and the Long Crendon Parish Neighbourhood Plan 2013-2023[3] (LCPNP). The AVDLP is now of some age and its policies for meeting the area's housing need are somewhat out of date. However, the LCPNP, adopted in 2017, contains a number of policies intended to be used to allocate development land and determine planning applications in the neighbourhood area for the period up to 31 March 2023. Furthermore, it seeks to enable the local community to help shape future development within Long Crendon while at the same time making a contribution towards the district's overall housing requirement.

9. LCPNP Policy LC1 sets out the spatial strategy for Long Crendon by supporting development within the settlement boundary[4]. In doing so it seeks to make provision for at least 82 dwellings over the plan period. It explains that this will be achieved through the delivery of 60 units that already have planning permission together with the development of the sites contained in LCPNP Policies LC2 and LC3 and by other appropriate development which satisfy the policies of the plan. However, it also makes clear that proposals outside that boundary will only be supported if they are *appropriate forms of development within rural areas* and are consistent with development plan policies relating to, amongst other things, landscape character and the natural environment.

10. The term '*appropriate forms of development within the rural area'* is not defined within the LCPNP. However, there is clearly an intention in LCPNP Policy LC1 to distinguish between the types of development which are acceptable outside the settlement boundary and those which are not. While I accept the appellant's argument that this does not exclude housing, the explanatory text

[2] Adopted 2004
[3] October 2017
[4] As shown on the policies map.

of LCPNP Policy LC1 makes clear that the boundary has been drawn to accommodate the site allocations for new housing. These allocations, together with a small amount of infill, represent the suitable locations for new housing within Long Crendon and how the expected contribution to the area's housing need will be addressed. However, Housing outside the settlement boundary, although not ruled out, is more restricted.

11. The site is not allocated for housing within the LCPNP and falls outside the identified settlement boundary. Even though I acknowledge the proposed development would not compromise either the LCPNP's stated vision or objectives, there is nothing in the LCPNP which would indicate that such large-scale housing development would be appropriate in this location. While I accept that LCPNP Policy LC1 contemplates some development around and outside the settlement boundary[5], I do not consider that it extends to a major housing scheme such as the one proposed.

12. Furthermore, although I note the appellant's argument that LCPNP Policy LC1[6] indicates that housing development outside but adjacent to the settlement boundary that does not cause any unacceptable landscape or other harm should be considered 'appropriate', I do not agree. When read in its proper context, LCPNP Policy LC1[7] identifies the sites which represent the community's preferred locations for housing growth. The appeal site is not such a site. Indeed, I heard evidence during the Inquiry that the appeal site was specifically considered as part of the preparation of the LCPNP[8] and was discounted by the community in favour of other, more preferable sites for housing.

13. Moreover, the proposal would deliver a significant amount of housing over and above the numbers currently identified. The LCPNP specifically highlights a concern about over delivery of new housing due to the environmental constraints that exist in and around the village as well as the considerable ambiguity surrounding housing numbers set out in the VALP. I note that the housing numbers set out in LCPNP Policy LC1 are expressed as a minimum and I accept that exceeding these numbers is not, of itself, harmful. However, permitting such large-scale residential development on this unallocated site outside the defined settlement boundary would significantly undermine one of the key objectives of the LCPNP; that is, to give the community some say over where new development, including housing, should be located.

14. In the present case, the LCPNP has been examined and found to be sound. It has subsequently been adopted incorporating the suggested modifications of the Examining Inspector. It now forms part of the development plan and sets out the spatial strategy for Long Crendon. By allocating sites for housing in the LCPNP, the community has expressed its view as to where new housing will best enhance or maintain the vitality of Long Crendon. As such, I am not persuaded that, when read in its proper context, LCPNP Policy LC1 permits major residential development outside the settlement boundary. Doing so would, in my view, create a realistic risk of overprovision of housing in the village, undermine the purpose of the settlement boundary and weaken public confidence in the neighbourhood planning process itself.

[5] and as such does not impose a blanket ban on residential development outside the settlement boundary
[6] And its explanatory text
[7] Along with LCPNP Policies LC2 and LC3.
[8] Long Crendon Parish Neighbourhood Plan 2013-2023 Site Assessment Report (Document ID 1.7)

15. Accordingly, I find the proposal does not accord with the spatial strategy set out in LCPNP Policy LC1.

Landscape and visual effects

16. The appeal site is located on the edge of the village, outside, but adjacent to, the Long Crendon settlement boundary. It comprises an agricultural field which rises to the north and is clearly visible from the village edge. It is designated as part of an Area of Attractive Landscape (AAL) in the AVDLP and is recognised in LCPNP Policy LC12 as providing a key view.

17. The main parties agree that the scheme will result in some adverse landscape and visual effects. It would involve the erection of up to 65 dwellings on what is currently an open, undeveloped site which forms part of the setting to the village. However, the Council accepts that, in light of the conclusions reached by the Inspector in the Previous Appeal Decision (the "Previous Inspector"), the landscape harm alone would not be sufficient to justify a refusal of planning permission. I have no reason to conclude otherwise.

18. Nevertheless, the Council has argued that the Previous Inspector failed to consider the effect of the proposal on the landscape as a whole and, as a result, underestimated the scale of the effect on the landscape as a receptor in its own right. I see nothing in the Previous Appeal decision which would support this view. Indeed, I concur with the views expressed by the Previous Inspector who concluded that the loss of the site would not undermine the designation of the AAL as a whole.

19. During the Inquiry, the Council drew my attention to drawing number BMD.SK.20160902.3 which indicates that the site would be visible from a number of vantage points within the surrounding landscape. However, when compared to drawing number BMD.SK.20160902.2, it is clear that the views of the site from within the wider landscape are significantly reduced by numerous visible barriers, both natural and manmade. From those which remain, the site is generally seen within the context of the existing village and I do not consider the proposal would have any material impact on the character of the wider landscape.

20. In addition, the Development Framework Plan[9] indicates that the development would be located some distance back from the ridge, which would go some way to ensuring that this important landscape feature was retained. Having considered the evidence afresh, I concur with the views of the Previous Inspector that the level of harm to the landscape would be limited. Likewise, while I note the Council's concerns in respect of density and scale of buildings, I see no reason that these matters could not effectively be overcome as part of the reserved matters. As such, I am not persuaded that the proposal would fail to understand or reflect the character and scale of nearby buildings or distinctive local landscape features.

21. Nevertheless, the Council has also drawn attention to LCPNP Policy LC12 which, amongst other things, seeks to ensure that development proposals have full regard to their effects on the views identified in the LCPNP[10]. Although the explanatory text to LCPNP Policy LC12 explains that the policy does not rule out

[9] 6804-L02 Rev I
[10] At appendix D.

any form of development, it nevertheless seeks to ensure that full consideration has been given to the nature of the view.

22. While I acknowledge the existing view from the end of public footpath 1/1 is somewhat limited, particularly during the summer months, it is nevertheless one which helps frame the village and positively contributes towards it rural and pastoral setting. Even though I accept that some consideration has been given to retaining framed views towards the buried remains of the Iron Age hill fort[11], the introduction of a large housing development on this site would irretrievably alter the visual integrity of this key view which contributes to defining the character of Long Crendon and which the community considered worthy of preservation.

23. Accordingly, I do not consider the proposal would result in unacceptable levels of harm to the character and appearance of the surrounding area including the landscape. As such, I find no conflict with LCPNP Policies LC1 or LC9 or with ADVLP Policy GB.35 in this respect. However, I find that the proposal would undermine a key view identified in LCPNP Policy LC12 and as such would be in conflict with this policy. While I acknowledge the Council's position that the level of harm would not be sufficient in itself to warrant a refusal of planning permission, it would nevertheless result in additional harm which weighs against the proposal.

Other Matters

Planning obligations

24. The appellant has submitted a duly executed Unilateral Undertaking (UU) which contains a number of obligations contingent on the granting of planning permission. However, other than those which relate to affordable housing, the obligations contained within the UU are intended to mitigate the effects of the proposed development. As I am dismissing for other reasons, I do not consider it necessary to consider these obligations in any further detail.

25. However, the obligations in respect of affordable housing provide a potential benefit which may weigh in favour of the proposal. Furthermore, I note that LCPNP Policy LC9 requires affordable housing provision of at least 30% on all market housing sites. I am satisfied that the affordable housing obligation is directly related to the development, is reasonably related in scale and kind and is necessary to make the development acceptable in planning terms. As such, I consider it meets the relevant tests set out in Regulation 122(2) of the Community Infrastructure Regulations 2010 and provides some support in favour of the proposal

Paragraph 11(d) of the Framework: The tilted balance

26. The appellant has argued that LCPNP Policy LC1 is inconsistent and out of date with the National Planning Policy Framework ("the Framework") as it supports a blanket ban on residential development in the countryside and seeks to 'protect' rather than 'recognise' its intrinsic character. However, as I have already set out above, LCPNP Policy LC1 does not in my view impose a blanket ban but rather restricts development to that which is appropriate in the rural area.

[11] 6804-L-02 Rev I

27. Similarly, while I note that the explanatory text indicates that one of the policies objectives is to 'protect' the intrinsic character and beauty of the countryside, the Framework advises that existing policies should not be considered out-of-date simply because they were adopted or made prior to its publication. Instead it advises that due weight should be given to them according to their degree of consistency with the Framework. While I accept that the Framework does not explicitly seek to protect the intrinsic character and beauty of the countryside, recognising intrinsic character inherently involves a protective or safeguarding response[12]. As such, I do not consider the overall objectives of LCPNP Policy LC1 are inconsistent with the Framework in this respect.

28. The appellant has also argued that LCPNP Policy LC1 should also be considered out of date because the approach to housing allocations set out in the VALP, and upon which the LCPNP is based, has been found to be unsound. However, the LCPNP was prepared amidst considerable uncertainty and the approach adopted was supported by the Examining Inspector who accepted that, notwithstanding this uncertainty, the spatial strategy set out in LCPNP Policy LC1 - including the settlement boundary, housing numbers and the site allocations proposed - was generally sound.

29. While I note that the current capacity-based approach being taken by the VALP is not reflected in the LCPNP and that the overall housing requirement for the District looks likely to increase, there remains some considerable uncertainty as to how this will be accommodated. Furthermore, as was the case at the time the LCPNP was made, the VALP housing requirement for Long Crendon is yet to be settled. It seems to me that, notwithstanding the change in approach to housing distribution within the VALP, until such time as there is more certainty on the housing requirement for Long Crendon, the spatial strategy in the LCPNP is not out of date and remains fit for purpose.

30. Consequently, I do not consider LCPNP Policy LC1 is inconsistent with the Framework nor out of date and as such, do not consider Paragraph 11(d) of the Framework is engaged.

Non-designated heritage assets

31. The site contains the buried remains of an Iron Age hill fort, a recognised non-designated heritage asset. However, the Development Framework Plan[13] indicates that the area where the hill fort is located would be kept free from development. The parties have agreed that any harm to this non-designated heritage asset could be guarded against by means of a suitably worded condition. I agree with that view and, as such, find no harm in this respect.

32. The site also contains the remnants of historic ridge and furrow earth works which would be lost. For similar reasons to those of the Previous Inspector, I consider the harm that would result from their loss would be acceptable.

Planning Balance

33. The scheme would deliver a number of social, environmental and economic benefits including the addition of up to 65 new dwellings towards the area's housing supply. The Framework is clear on the need to significantly boost the

[12] Alwyn De Souza v. Secretary of State for Communities and Local Government [2015] EWHC 2245 (Admin).
[13] 6804-L02 Rev I.

supply of housing and I agree that the contribution that can be made by *any* type of housing should not be underestimated. As such, I afford this considerable weight. Likewise, the scheme would make an important contribution towards affordable housing in the area which would provide a positive public benefit and meet an identified need. I also afford this considerable weight.

34. Furthermore, I acknowledge the proposal would also result in a number of economic benefits, including additional employment during construction, additional expenditure for the local economy and ongoing support for local businesses and services. However, these benefits are more limited, and I afford them only a moderate amount of weight.

35. In addition, I note the other benefits referred to by the appellant including the provision of public access and open views, additional play space for use by both current and future residents, improvements to vehicular, pedestrian and public transport infrastructure as well as financial contributions towards sports and leisure facilities and education. However, these benefits are, for the most part, intended to help mitigate the impact of the proposed development and make it acceptable in planning terms. Although individually they are modest, some would be of benefit to the wider community and cumulatively, I afford them a moderate amount of weight.

36. However, while I note the appellant's assertion that the proposal would result in a net benefit for biodiversity, there is no robust evidence which would indicate that this would be significant. On the evidence before me, I am not persuaded that there would be any material benefit and, as such, I afford it little weight.

37. Nevertheless, I have found above that the proposal would be contrary to the spatial strategy for Long Crendon as set out in LCPNP Policy LC1. The Framework makes clear that neighbourhood planning is intended to give communities the power to develop a shared vision for their area and seeks to empower local communities and provide them with an effective means to shape and direct development in the neighbourhood area. Policy LC1 is fundamental to the LCPNP achieving this aim and in view of the fact that this plan became part of the development plan relatively recently, I afford the conflict with this policy very significant weight.

38. In addition, I consider there to be some harm as a result of the loss of a key view. However, I am mindful that the parties agree that the overall landscape and visual harm would be limited and would not, by itself, be sufficient to warrant a refusal of planning permission. Nevertheless, I agree that it weighs against the proposal and afford it moderate weight.

39. On balance, while I note the considerable benefits that would accrue, both to future residents and the local community, I do not consider them sufficient to overcome the harm identified above.

Conclusion

40. For the reasons set out above, and having had regard to all other matters raised, I conclude that the proposal is in conflict with the development plan as a whole and that there are no material considerations which indicate that a departure would be justified.

41. Accordingly, I conclude that the appeal should be dismissed, and planning permission should be refused.

Rory Cridland

INSPECTOR

APPEARANCES

FOR THE COUNCIL

Isabella Tafur, of Counsel

She called

Jonathan Bellars CMLI	Landscape architect
Nina Hewitt-Jones	Planning officer

FOR THE APPELLANT

Jonathan Easton, of Counsel

He called

Gary Holliday BA, M.Phil CMLI	FPCR Environment and Design Ltd
Jason Tait BA (Hons) DIP TP, MRTPI	Planning Prospects Ltd

INTERESTED PERSONS

Sue Stamp	Head teacher, Long Crendon School.
Greg Lismore	Long Crendon Parish Council Clerk
Steve Holt	Local resident
Phil Rose	LCPNP Steering Group
Simon Poote	Teacher, Long Crendon School
Andrew Gill	Local resident
Carolyn Didsbury	Local resident
Prof Tim Shreeve	Professor of Ecology, Oxford Brookes University
Mick Janes	Local resident
Hayden Davies	Local resident

ADDITIONAL DOCUMENTS SUBMITTED

Documents Submitted at the Inquiry	
1.1	Policy LC1 and supporting text from LCPNP Submission Version (March 2017)
1.2	LCPNP Local Green Space and Landscape Study Report (March 2017)
1.3	Update on the emerging Vale of Aylesbury Local Plan (draft VALP) position
1.4	Section 106 CIL compliance statement
1.5	Site visit itinerary (suggested locations)
1.6	Gladman Developments Limited v. Secretary of State for the Ministry of Housing, Communities and Local Government, Central Bedfordshire Council [2019] EWHC 127 (Admin)
1.7	LCPNP Site Assessment Report (March 2017)
1.8	Missing extracts from HELAA (CD 14.6)
1.9	Final Draft Section 106 Unilateral Undertaking
1.10	Statement from Mr Lismore
1.11	Extract from Strategic Assessment VALP
1.12	Response to evidence of Professor Shreeve (by TEP Ecology)
1.13	Draft List of Agreed Conditions
1.14	Updated draft List of Agreed Conditions
1.15	Extract of Section 122 Community Infrastructure Regulations 2010/948
1.16	Opening Statement on behalf of the Council
1.17	Opening Statement on behalf of the appellant
1.18	Closing Submissions on behalf of the Council
1.19	Closing Submissions on behalf of the Appellant
1.20	Final list of agreed conditions
Documents submitted following the close of the Inquiry	
1.21	Final certified copy of duly executed Section 106 Unilateral Undertaking
1.22	Additional Information in respect of transport contributions

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