
Appeal Decision

Site visit made on 8 October 2019

by James Taylor BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 November 2019

Appeal Ref: APP/J0405/W/19/3233999

Old Oak House, 23B Old End, Padbury MK18 2BE

- 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 E Pranevicius against the decision of Aylesbury Vale District Council.
 - The application Ref 19/01532/APP, dated 23 February 2018, was refused by notice dated 16 July 2019.
 - The development proposed is described as 'construction of new dwelling (retrospective / resubmission)'.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr E Pranevicius against Aylesbury Vale District Council. This application is the subject of a separate Decision.

Procedural Matter

3. From my site inspection and reading of the evidence I am aware that a dwelling has been erected on site without accordance with the original planning permission. I have noted numerous differences between the development that has taken place on site and the appeal now before me. Therefore, I have determined the appeal based on the submitted plans and the evidence provided.

Main Issue

4. The main issue is the effect of the proposal on the setting of designated heritage assets, including the Padbury Conservation Area (PCA) and 23, 24 and 25 Old End, Grade II listed buildings.

Reasons

5. I have had regard to the planning history of the site, including the recent appeal decision (ref: APP/J0405/W/18/3208655) which dismissed an alternative scheme. The appeal before me is a resubmission in light of that decision. From my site observations and reading of the evidence, the appeal site, context and policy position appears to be little changed since then.
6. The scheme has now been altered, principally with the removal of the projecting first-floor gables to the south elevation and the ground-floor porch

canopy to the east elevation. To the south elevation, the ground-floor footprint remains as proposed previously, but now with a simple roof form. To the first-floor, dormer windows are now proposed to match those elsewhere on the building.

7. I have noted that the Council's view that the development on the site does not reflect the original planning approval (LPA reference 15/01216/APP), that the permission was not implemented and that the consent is no longer extant due to time. However, the Council does acknowledge that the principle of development at the site has been established by the planning history. I have no evidence or reason to consider that should planning permission for the previously consented dwelling be sought again that it would not be forthcoming.
8. However, it is a notable dispute between the parties as to whether the consented scheme remains extant. This is not a matter for me to determine in the context of an appeal made under section 78 of the Town and Country Planning Act 1990 (the Act). It is open to the appellant to apply to have the matter determined under section 191/192 of the Act. Any such application would be unaffected by my determination of this appeal.
9. The previous Inspector set out a number of issues with the proposal before them. The current appeal addresses some of the issues raised but not all of them. For example, the ridge and eaves of the front projection remain unchanged and fail to adequately achieve the subordinate appearance that the previously consented scheme did. The east elevation is little altered and greater development remains over and above the consented scheme. Furthermore, to the west elevation the single storey additions remain. Having retained the ground-floor projections on the south elevation the depth of the current scheme remains considerably greater than the consented scheme. This greater depth remains in closer proximity to the heritage assets than any similar single-storey element on the south elevation of the consented scheme. Furthermore, it adds to the overall mass and bulk of development at the site.
10. The main offending element of the previously proposed dwelling has been omitted. Furthermore, the proposed outbuilding, which the Inspector found contributed markedly to the scale and bulk of the scheme has been removed too. Therefore, I consider the proposal to have less of an effect by virtue of these reductions. However, the current appeal proposal remains considerably greater than the previously consented scheme in a number of ways. The cumulative impact of the greater eaves and ridge height of the first-floor projection on the north elevation and the range of single storey additions to the east, south and west elevations significantly contribute to a dense form of development. I am mindful that the footprint of the built form remains less than the garage development that previously occupied the site. However, the additional height of the dwelling contributes to the density of development over and above the garaging that formally occupied the site.
11. The proposed single-storey development, due to its height, is less visible from public vantage points along Old End, including across the garden of 25 Old End, compared to the first-floor development. However, that does not mitigate the cramped nature of the development within the setting of these assets. I have also had regard to the site from the public right of way to the west of the appeal site which runs through the adjacent open fields. I consider that the

proposed development would continue to appear overly large and bulky within the context of its surroundings.

12. Therefore, on balance, I consider that the proposal, overall, would represent an overly prominent and cramped form of development which would erode the spatial qualities of the locality and which would appear out of keeping with the general pattern of development of the area. This would result in harm to the setting of a number of designated heritage assets, namely the PCA and the Grade II listed dwellings of 23, 24, and 25 Old End. This would be contrary to saved policies GP35 and GP53 of the Aylesbury Vale District Local Plan Part 1 (LP). Amongst other aims these seek the protection of conservation areas and their setting. Furthermore, they seek high-quality design that reflects the physical characteristics of the site and their surroundings, the building tradition, form and ordering of the locality and the historic scale and context of the setting.
13. Whilst I note that these policies are aged, I consider that they have general conformity with the National Planning Policy Framework (the Framework). The appellant does not challenge the Council's view that saved policy GP35 ought to be afforded full weight. Nor do they challenge that policy GP53 ought to still be afforded significant weight despite the lack of any balancing exercise contained within it. I consider that the Council's weighting is reasonable, and in light of that I have had regard to the Framework as a material consideration.
14. The Framework sets out at paragraph 193 that when considering the impact of proposed development on the significance of heritage assets, great weight should be given to the asset's conservation, irrespective of the level of potential harm. This is reflective of the statutory duty at Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Paragraph 194 of the Framework sets out that harm to the setting of any asset should require clear and convincing justification. Furthermore, in the event of less than substantial harm to the significance of a designated heritage asset, paragraph 196 requires this harm to be weighed against the public benefits of the proposal.
15. The significance of the designated heritage assets of the PCA and the Grade II listed 23, 24 and 25 Old End derive in part from the lower density spatial quality of the area. This is generated by the modest vernacular buildings which characterise this part of Old End and the spaces that surround them. Prior to its development, the appeal site was occupied by single storey garages, which by virtue of their low level would have been reflective of the spatial qualities of the area.
16. Similarly to the previous Inspector's findings, I consider that the level of harm to these heritage assets would be less than substantial. Given the positive alterations that have been made to the scheme compared to the previous appeal scheme, I consider that it would be to the lower end of such harm. I am mindful that some public benefit would be gained from the provision of an additional dwelling through, for example, the contribution to local housing supply, provision of construction jobs, and reusing previously developed land. However, this could similarly be achieved through an alternative development without harm to designated heritage assets. As such I afford this little weight and consider that it does not outweigh the less than substantial harm that I

have found, nor does it provide clear and convincing justification to accept harm to the setting of these assets.

17. Therefore, in conclusion on the main issue I find that the proposal would have a harmful effect on the setting of designated heritage assets, namely the PCA and the Grade II listed buildings 23, 24 and 25 Old End. This would be contrary to saved policies GP35 and GP53 of the LP and section 16 of the Framework, the aims of which include the protection of the significance of designated heritage assets including their settings.

Other matters

18. The appellant highlights that the dwelling would be for their own occupation and they require additional accommodation over that provided by the consented scheme. Furthermore, they highlight the financial burden of the protracted planning process on them personally. However, such personal circumstances are not a consideration to which I afford any significant weight.
19. The appellant has referred to permitted development rights as a material consideration. I am mindful of the general principle that permitted development rights are not available until a dwellinghouse has been substantially completed, even if the changes would have been permitted development if they had been carried out to the completed dwelling. It is a matter of some uncertainty as to whether the originally consented scheme remains extant. Furthermore, based on the evidence available to me I have seen nothing to suggest that the appellant would have genuinely pursued the option of substantially completing the development, and then altering it under permitted development rights. I am not convinced that this is therefore a likely fall-back position. As such, it is a matter of limited weight and does not alter my findings overall.

Conclusion

20. The appeal scheme would be contrary to the development plan and the Framework when read as a whole. No other material considerations indicate that a decision should be made otherwise than in accordance with the plan. Accordingly, for the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

James Taylor

INSPECTOR