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## Appeal Decision

Site visit made on 8 October 2019

**by J Gibson BUEP MPIA**

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

**Decision date: 14 November 2019**

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**Appeal Ref: APP/J0405/W/19/3234192**

**Beech Cottage, 14 Bishopstone, Bishopstone HP17 8SF**

- 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 & Mrs M Bolkonsky against the decision of Aylesbury Vale District Council.
  - The application Ref 18/04423/APP, dated 10 December 2018, was refused by notice dated 21 June 2019.
  - The development proposed is for the demolition of existing outbuildings and the erection of a detached single storey dwelling with access, parking and amenity space, with new access and parking to existing dwelling.
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### Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing outbuildings and the erection of a detached single storey dwelling with access, parking and amenity space, with new access and parking to existing dwelling at Beech Cottage, 14 Bishopstone, Bishopstone HP17 8SF in accordance with the terms of the application, Ref 18/04423/APP, dated 10 December 2018, subject to the conditions set out in the attached schedule.

### Main Issue

2. The main issue is whether the proposed development would be a suitable location for housing, with regard to the accessibility to services.

### Reasons

3. The appeal site is currently occupied by a traditional thatched roof dwelling (referred to as Beech Cottage) with a number of outbuildings located within the rear garden. The site is narrow, but long, running parallel along the road frontage with open farmland to the rear. The portion of the site proposed to be developed is in the north western part and would be located on the edge of the Bishopstone built extent.
4. Bishopstone is a small rural village located within the open countryside, with no formal pedestrian footpaths and an infrequent public transport service. Consequently, any opportunities for more sustainable modes of transportation such as walking, cycling and public transport are limited, with reliance on private vehicles likely the main form of transport for the local community. Notwithstanding this, Paragraph 103 of the National Planning Policy Framework (the Framework) acknowledges that the level of services will differ in rural areas compared to urban areas, and as such should be taken into account

when considering development which may otherwise represent sustainable development on balance.

5. Paragraphs 77-79 of the Framework describe the strategy to promote sustainable development within rural areas. They describe the opportunities for proportionate development in rural areas to maintain the vitality of rural communities and support local services, including those in nearby villages (Paragraph 78), and the need to avoid isolated homes in the countryside (Paragraph 79).
6. In considering whether the appeal proposal would be appropriately located, with respect for accessibility to local services, the Council had regard to the Settlement Hierarchy Assessment (September 2017) (SHA) which serves as the evidence base to support the emerging Vale of Aylesbury Local Plan (VALP). Although the emerging VALP is at a premature stage, and therefore can be attributed little weight, the SHA represents the most up to date settlement data for the area and can be attributed moderate weight. Despite the Council's conclusion on the proposed development, they acknowledge that Bishopstone village offers some sustainable features, based on the SHA, which could support some small scale development without causing any environmental harm and would contribute towards maintaining local communities and their vitality. The SHA identifies that Bishopstone is benefitted by a community hall and its close proximity to Aylsebury. Having further regard for Paragraph 78 of the Framework the close proximity of Bishopstone to Stone, a large settlement with a significant number of sustainable features under the SHA, would again support the view that the appeal site and proposed development would have greater accessibility to local services than suggested by the Council.
7. I acknowledge that there is a lack of pedestrian and cycle infrastructure, and regular public transport services to encourage more sustainable modes of travel from Bishopstone. However, having regard for Paragraphs 103 and 108 of the Framework and the SHA, it is my view that the appeal proposal and its location would be proportionately appropriate acknowledging its scale, rural context, and the level of services available close by.
8. I note the planning permissions and appeal decisions raised by the appellants as a means of demonstrating that the appeal site was suitable location for development. However, based on the information provided I did not consider the cases directly comparable as they included additional considerations which are not reflected by this appeal proposal. With specific regard for the appeal decision at 58 Bishopstone, which both parties referenced, the decision acknowledges the limited infrastructure in Bishopstone towards promoting sustainable modes of transport but concludes on this matter by acknowledging the villages capacity to accommodate small scale development without causing environmental harm under the SHA. This reiterates my reasoning as set out above. This aside, I have considered the appeal before me based on its own merits.
9. Accordingly, I am satisfied that although predominantly reliant upon private vehicle transportation the appeal site and scale of the proposed development would not conflict with the sustainable transport strategy under the Framework. Therefore, in my judgement the proposed single storey dwelling and associated works would be located in a suitable location for housing, having regard for the accessibility to services.

## Other Matters

10. The second reason for refusal on the Council's decision notice related to the need for a Drainage Strategy to be submitted to support the proposal. I note the Council's concern regarding the potential for groundwater flooding, however based on the evidence before me I am satisfied that this matter could appropriately be addressed through a condition.
11. The Council suggests as part of their assessment of the appeal proposal that the location of the appeal site sits distinctly beyond the footprint of Bishopstone village, and as such would unduly encroach into the countryside. Based on the evidence provided and observations during my site visit, it is my view that the Council have overstated the described prominence of the proposed dwelling and appeal sites disconnect from the built extent of Bishopstone. Bishopstone is not subject to a defined settlement boundary and as such is defined by its pattern of development. The pattern of development to the north west of Bishopstone is linear, sporadic and dispersed in nature, and contributes towards a positive transition between the built up parts of Bishopstone and the more rural setting of the open countryside.
12. The characteristics of the appeal site are such that the proposed development would not appear to unduly encroach within the open countryside as suggested. It would maintain the established pattern of development and close what already appears to be the existing built extent of the Bishopstone village. Furthermore, the Council acknowledge that the proposed development could not reasonably be considered isolated in accordance with Paragraph 79 of the Framework. I do not share the Council's view that the proposal would constitute a harmful precedent for incremental encroachment of development into the open countryside, as the appeal site represents a logical extension of the built extent consistent with the pattern of development. That withstanding, each proposal should be assessed on its own individual merits
13. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires that special attention be given to the desirability of preserving or enhancing the character or appearance of the conservation area. The appeal site falls within the Bishopstone Conservation Area (CA) which is significant for its historic buildings and agricultural setting. More specifically, the site forms part of the Upper Bishopstone and Moreton Lane Identity Area which offers an eclectic mix of architectural styles and dates of buildings along the tree lined main road, offering occasional glimpses of the open countryside beyond the built extent of the settlement. The site is also subject to a designated heritage asset in Beech Cottage, which is a Grade II Listed Building. As such I have also had regard to the statutory duty under section 66 of the in relation to the setting of the Listed Buildings.
14. The Council's Heritage Officer was satisfied that the proposed development would not result in any harm to the CA character and appearance nor the architectural or historic significance of the Listed Building and its setting. Based on my observations during the site visit I am similarly satisfied. There would be a clear separation between the proposed dwelling and Beech Cottage consistent with the pattern of development, and it would remain concealed from the Bishopstone street scene by the trees framing the entrance into the village. The proposal therefore has a neutral effect on the CA and the Listed Building.

## Planning Balance

15. Both parties have agreed that the overarching settlement strategy under the Aylesbury Vale District Local Plan (AVDLP), which seeks to concentrate the majority of new development within Aylesbury and approximately a third in sustainable locations in rural areas, remains generally consistent with the sustainable development objectives of the Framework. However, they also agree that housing policies under the AVDLP most important for determining the proposed development are out of date and do not accurately reflect the current demand for housing within the district. The emerging VALP could offer some more up to date local policies for consideration, but is at a premature stage in its development to assign any significant weight. Accordingly, primary weight has been given to the Framework as the most up to date planning policy for assessment.
16. There is consensus between the parties that the “tilted balance” under Paragraph 11(d) of the Framework applies, which specifies that where the development plan policies which are most important for determining the application are out of date permission is to be granted. However, this would not apply where (i) “the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed” or (ii) “any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole”. The matters before me concern item (ii) and whether the proposal would result in any adverse impacts.
17. The proposed development would contribute positively towards the housing supply within the district, albeit to a limited degree having regard to its scale and the current five year housing land supply being demonstrated by the Council. It would also have economic benefits for local services, together with short term economic benefits in terms during the construction works associated with the development. As noted under the SHA, which can be afforded moderate weight, small scale development such as the appeal proposal would appropriately contribute towards the vitality of rural communities and support of local services of both Bishopstone and nearby villages without environmental harm. Although minor, these considerations still represent a benefit which further weighs in favour of allowing the proposed development.
18. Concerns regarding the relationship between the appeal site and the built extent of Bishopstone, the need for a Drainage Strategy condition to address potential groundwater flooding, and the effect of the proposal on the Grade II listed Beech Cottage are all considered to have a neutral effect in the planning balance. The appellants also referred to a suggested fallback position, however I have given this little weight in my determination. The personal circumstances for which the appellants have proposed the development would not outweigh the relevant planning considerations identified.
19. Accordingly, the absence of any significant and demonstrable harm weighs in favour of the “tilted balance” under 11(d) of the Framework. The acknowledged contribution of the proposal towards the district housing supply, vitality of rural communities and support of local services of both Bishopstone and nearby villages, albeit minor, represents a benefit which further weighs in favour of allowing the proposed development. Therefore, on balance, I

consider the proposed single storey dwelling and associated works would not result in any adverse impacts that would significantly and demonstrably outweigh the benefits, and would comply with the policies of the Framework taken as a whole.

### **Conditions**

20. In allowing the proposed development I have had regard to the conditions proposed by the Council and other parties to the appeal. Where necessary I have amended the wording of the suggested conditions, in the interests of precision and clarity, and in order to comply with advice in the Planning Practice Guidance and the Framework.
21. Planning permission is granted subject to the standard three year time limit condition. It is necessary that the development shall be carried out in accordance with the approved plans in the interests of certainty.
22. In the interests of the character and appearance of the area, it is necessary to impose a landscaping, building material and driveway material conditions. It is not necessary that these be pre-commencement conditions and so I have altered the suggested wording accordingly.
23. The conditions proposed relating to the access design and the need for unobstructed visibility splays are necessary for the safety and function of the highway network and its users. Likewise, conditions requiring the internal parking and manoeuvring area to be kept clear of obstruction or used for any other purpose than that intended. It is not necessary that any of these be pre-commencement conditions and so I have altered the suggested wording accordingly.
24. Having regard for the sensitive location of the proposed development within the Bishopstone CA and the setting of the Grade II Listed Building Beech Cottage, I consider it necessary to remove permitted development rights from the proposed development. The ecological mitigation condition is considered necessary, but does not warrant a pre-commencement condition. Similarly, for details for the discharge of foul and surface water drainage.
25. A pre-commencement condition requiring drainage details to be submitted and approved is considered necessary to satisfy Paragraph 163 of the Framework. Acknowledging the ground water characteristics of the site, as described by the County Sustainable Drainage Officer, this would ensure that the development addresses any potential risk.
26. The proposed condition restricting the extent of demolition works is not necessary, as this is already shown on the approved plans of development which have been conditioned.
27. Both parties have had the opportunity to provide comments on the schedule of conditions. The procedure set out under section 100ZA(5) of the Town and Country Planning Act 1990 has been followed. The appellant has responded and confirmed that they have no comments on the schedule of conditions, whilst no response has been received from the Council. As the Council have not provided a response on the pre-commencement conditions specifically, within the required timeframe, deemed consent has therefore been given in accordance with Regulation 2(1)(b) of the Town and Country Planning (Pre-commencement Conditions) Regulations 2018.

## **Conclusion**

28. For the reasons given above I conclude that the appeal should be allowed, subject to the conditions.

*J Gibson*

INSPECTOR

### **Schedule of Conditions**

- 1) The development hereby permitted shall begin no later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans received by the Local Planning Authority on 12 December 2018: Site Location Plan (Ref P100); Site Plan (Ref P101); Demolition Plan (Ref P102); Proposed Floor Plan (Ref P103); Proposed Elevations (Ref P104).
- 3) Before any building operations above the approved ground floor level of the dwelling hereby permitted are commenced, samples and details of the proposed external surface materials of the dwelling shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved materials and thereafter retained.
- 4) Before first occupation of the dwelling hereby permitted, details of the materials proposed to be used on the surfaces of the access and parking/manoeuvring area shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out using the approved materials and thereafter retained. The parking and manoeuvring area indicated on the approved Site Plan (Ref P101) 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.
- 5) Before first occupation of the dwelling hereby permitted, the access shall be built in accordance with the approved Site Plan (Ref P101) and constructed in accordance with Buckinghamshire County Council's guide note 'Private Vehicular Access Within Highway Limits' 2013.
- 6) Before first occupation of the dwelling hereby permitted, minimum vehicular visibility splays of 79 metres set 2.4 metres back from the edge of the Bishopstone carriageway, from both sides of the existing access, shall be provided in accordance with the approved Site Plan (Ref P101). The visibility splays shall be kept clear thereafter from any obstruction between 0.6 metres and 2.0 metres above ground level.
- 7) Before first occupation of the dwelling hereby permitted, full details of soft landscape works shall be submitted to and approved in writing by the Local Planning Authority. Soft landscape works shall include 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 where appropriate; implementation programme. These works shall be carried out 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) The existing tree/hedge screen situated on the north-east boundary of the site shall be retained in perpetuity during construction works and following completion of the development hereby permitted. Should any part die or be damaged during the course of development, replacement planting shall be undertaken in accordance with a scheme to be submitted to and agreed in writing by the Local Planning Authority.
- 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order with or without modification), no enlargement of the dwelling nor the erection of any garage shall be carried out within the curtilage of the dwelling the subject of this permission, no windows, dormer windows, no buildings, structures or means of enclosure shall be erected on the site which is the subject of this permission other than those expressly authorised by this permission.
- 11) Before any building operations above the approved ground floor level of the dwelling hereby permitted are commenced, details of ecological enhancement of 1 integrated bat box and 1 integrated bird box to be incorporated into the building shall be submitted to and approved in writing by the Local Planning Authority. The development shall proceed in accordance with the approved integrated bat and bird enhancement scheme, which shall have been installed prior to the first occupation of the development and retained thereafter.
- 12) Before first occupation of the dwelling hereby permitted, details of the proposed means of disposal of foul and surface water drainage shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out using the approved scheme of drainage and thereafter retained.
- 13) Development shall not begin until drainage details, incorporating sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, have been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is occupied and thereafter retained.