
Appeal Decision

Site visit made on 17 December 2019

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: Thursday, 16 January 2020

Appeal Ref: APP/J0405/W/19/3237395

Land adjacent to Leckhampstead Road, Akeley MK18 5HH

- 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 W E Black Ltd against Aylesbury Vale District Council.
 - The application Ref: 18/03471/APP, is dated 28 September 2018.
 - The development proposed is the erection of five detached dwellings, and associated garaging, parking and amenity space, served off two new private drives, a replacement access for existing stabling/paddocks and the widening of Leckhampstead Road to also incorporate a new footpath.
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Decision

1. The appeal is dismissed, and planning permission is refused for the erection of five detached dwellings, and associated garaging, parking and amenity space, served off two new private drives, a replacement access for existing stabling/paddocks and the widening of Leckhampstead Road to also incorporate a new footpath.

Main Issues

2. From the evidence before me, the main issues are:
 - the effect of the development upon flood risk, with particular regard to surface water drainage from the development; and
 - whether, in the absence of a legal agreement, sufficient provision would be made for the provision of sports and leisure facilities.

Reasons

Drainage

3. The appeal site consists of an undeveloped site within the village of Akeley. The site is surrounded by a number of dwellings of differing proportions and designs. Adjacent to the site is Leckhampstead Road, which is sited on lower ground than the appeal site. The current boundary with Leckhampstead Road is marked by a hedge.
4. The development would include a swale that is intended to collect surface water from the site. Whilst this would ensure that the development would feature a suitable mechanism for the collection of such water, the evidence before me is indicative that the collected surface water would be discharged

- from the site and conveyed away from the development using the adjacent highway's drainage system.
5. Whilst I recognise that the ground conditions of the site do not appear to allow for infiltration and that the site is some distance away from a water course, the evidence before me does not indicate how the collected water would be managed so that it could be conveyed from the swale to the highway drainage system in a managed manner. This is important as if the water were to be discharged in an unmanaged way, it could create flood issues within the highway and general vicinity of the site. This is particularly concerning as the National Planning Policy Framework (the Framework) is clear that development should be carried out in a manner that does not increase flood risk on the development site, or elsewhere.
 6. Furthermore, should water be discharged onto the highway in an uncontrolled manner, the potential would exist for water to pool on the highway, which could create problems, such as in periods when temperatures are very low. This reinforces the need for the development to have an appropriate system for the management of surface water drainage.
 7. It is apparent that for this drainage system to be implemented, the agreement of the local highway authority would be required. From the evidence before me, it is not possible to establish whether such permission has been requested, or indeed granted. As a result, I do not have certainty that this drainage system is deliverable and could be maintained throughout the life of the development.
 8. I have had regard as to whether it would be possible to impose a condition requiring the development to be carried out in accordance with the submitted drainage details. However, owing to the lack of certainty regarding the delivery of the drainage system, such a condition would not comply with the statutory tests regarding planning conditions as prescribed within the National Planning Practice Guidance.
 9. The appellant has suggested that an alternative drainage system, such as boreholes could be installed within the development. Whilst I acknowledge this suggestion, I do not have evidence regarding the potential capacity of an alternative, underground system. In consequence, I cannot be certain that it would adequately collect the surface water run-off from the development. Furthermore, I do not have any information regarding the maintenance regime that could be put in place. This causes concern as I cannot be certain that the scheme would be effective throughout the life of the development. In addition, I do not have information in respect of how this system would affect the appearance of the development. This is important due to the good quality of the surrounding area.
 10. There is a significant need to ensure that an appropriate drainage system can be provided, which means that it should be considered alongside the assessment of the rest of the development. I therefore do not believe that a condition to secure a system that significantly differs from that submitted with the planning application would be appropriate.
 11. My attention has been drawn to a previous appeal pertaining to a residential development at the site. I have noted that the Inspector, in dismissing the appeal, concluded that the drainage system could be the subject of planning conditions.

12. Notwithstanding this, there are some notable differences between the previous appeal scheme and the development before me. In particular, the previous scheme was submitted in outline, with all matters reserved. Therefore, there is a possibility that some of the details pertaining to the development may be amended between the outline and reserved matters stages. This contrasts with the application for full planning permission that is before me.
13. In addition, I am uncertain of the contents of representations that may have been made by the relevant lead local flood authority and highway authority at the point that the previous application was considered by the Council. I therefore do not have certainty that the circumstances that lead to the outcome of the previous appeal, and the development currently before me are directly comparable.
14. In consequence, there are notable differences between the two schemes, and therefore the presence of the previous appeal is not sufficient to offset my concerns.
15. I therefore conclude that the proposed development would increase the risk of flood risk within the vicinity of the appeal site. The development, in this regard, fails to comply with the requirements of the Framework, which amongst other matters, seeks to ensure that new developments are safe from flooding and should ensure that flood risk is not increased elsewhere.

Outdoor sports and leisure facilities

16. The site is located within a village, with the predominant land use being residential accommodation. The development includes dwellings that feature gardens that would serve as private recreation space for the occupiers of the development. Akeley includes a village hall, adjacent to which are a playing field, children's play equipment, and some allotments.
17. Whilst I note the presence of private gardens within the development, their size is such that they are unlikely to be suitable for all types of recreation that residents might wish to undertake. In consequence, residents are likely to require access to other facilities.
18. Whilst the site is near to the village hall, and associated facilities. The scale of these is proportionate to the size of the settlement. This limits their capacity to be used by potentially several new residents, in addition to other existing residents within the village.
19. In consequence, enhancements to open space facilities is likely to be required so that they may be improved in order to meet the needs of the additional residents, or so that new facilities might be provided. Given that this is likely to require a financial contribution, the lack of suitable legal agreement by which this could be secured is particularly concerning.
20. I therefore do not have enough certainty that the required contribution would be paid at an appropriate trigger point. In consequence, I am unable to conclude that this impact would be satisfactorily mitigated.
21. In reaching this view, I have had regard as to whether a condition could be imposed in order to overcome this point. However, given that the obligation would require a financial contribution as previously mentioned, a condition would not meet the statutory tests for the imposition of planning conditions.

Accordingly, the impacts of the development upon sports and leisure facilities provision within the locality would be unmitigated.

22. The appellant has highlighted that should planning permission be granted, they would be able to transfer a section of the site to the local Parish Council. However, as this would take place outside of the planning process, I do not believe that it would mitigate the harm as previously identified.
23. I therefore conclude that the proposed development fails to make adequate provision for the provision of sports and leisure facilities. The development, in this regard, would fail to comply with the requirements of Policy GP88 of the Aylesbury Vale District Local Plan (2004) and the Sport and Leisure Facilities Supplementary Planning Document (2005). These, amongst other matters, seek to ensure the provision of play and outdoor facilities and, where these could not be secured on site, a financial contribution (secured through a legal agreement) should be made.

Other Matters

24. The evidence before me is indicative of there being a need for new housing within the area, although it would appear that the Council can demonstrate a five-year housing land supply. Whilst the development would contribute to addressing this need, the overall benefits would be comparatively small on account of the scale of the proposed development. In consequence, such benefits would not outweigh the significant harm as previously identified in respect of the Main Issues.
25. I note that an element of the proposed development includes the provision of additional pavement within Leckhampstead Road and other highway works. Whilst this is of some benefit, the impacts would exist on a very local scale only and do not outweigh the significant harm as previously identified.
26. I acknowledge concerns raised by the appellant regarding the manner that the planning application was considered by the Council. However, in considering this appeal, I have limited my considerations to the planning matters before me.

Conclusion

27. For the preceding reasons, I conclude that the appeal should be dismissed, and planning permission refused.

Benjamin Clarke

INSPECTOR