



Appeal Decision

Site visit made on 5 February 2020

by D Peppitt BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th March 2020

Appeal Ref: APP/J0405/W/19/3242224

Land to the South-East of 33 Aylesbury Road, Bierton, Aylesbury HP22 5BS

- 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 M Heffer against the decision of Aylesbury Vale District Council.
 - The application Ref 19/02500/APP, dated 8 July 2019, was refused by notice dated 22 October 2019.
 - The development proposed is the demolition of existing garage/workshop and erection of 1 no 2 bedroom C3 detached bungalow.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Reference has been made by the Council to the emerging Vale of Aylesbury District Local Plan. The Council has suggested that it is closer to adoption than when the application was determined. However, it is not clear when the exact date of adoption will be. Therefore, I can only give the emerging policies limited weight in the determination of this appeal.

Main Issues

3. The main issues are the effect of the proposed development on:
 - the character and appearance of the area; and
 - the living conditions of the occupiers of the neighbouring properties, with particular reference to privacy.

Reasons

Character and appearance

4. The appeal site is located to the rear of No 33 Aylesbury Road and is accessed via a narrow access road between No 39 and No 41 Aylesbury Road. The area is predominantly residential in character, with nearby properties characterised by semi-detached dwellings, following a linear row of development along Aylesbury Road. The exception to this, is the property called St Breward, which is located at the end of the access road adjacent to the appeal site, and sits beyond the boundaries of the nearby gardens. Between the appeal site and St Breward, there is close boarded fencing and areas of vegetation. The other boundaries form part of the adjacent gardens and the access road. The appeal

site currently has an existing garage on it, which would be demolished as part of the proposal. With the exception of St Breward, there are no other dwellings visible to the rear along Aylesbury Road, although there are existing ancillary structures in the gardens of nearby properties.

5. The proposal is to erect one detached chalet style two storey, two-bedroom dwelling. The dwelling would be located adjacent to the south-east boundary of the appeal site with its front elevation facing north-east towards the existing access. Whilst being described as a bungalow, the dwelling would have first floor accommodation within the roof space. There would be two dormers and a balcony to the rear and two roof lights to the front. The proposal would also use similar materials to the existing nearby properties.
6. I acknowledge that ancillary buildings are visible to the rear of the properties on Aylesbury Road, however, they are of a scale and design that would be expected of outbuildings in rear gardens. Furthermore, these structures are relatively low in height in comparison to the main properties, as such, they appear subservient. I note that the proposal would not be readily visible from the road, nevertheless, it would be readily apparent from the nearby properties and their garden areas and the adjacent green.
7. The appellant states the density of the proposal is in line with the surrounding development. Whilst the footprint of the proposal could be accommodated within the site, with space around it, as well as having an associated garden area, the design and location of the proposal would be at odds with the current pattern of development along Aylesbury Road. It would appear as an incongruous feature in the open area to the rear of the properties in this area.
8. I find that the proposed development would harm the character and appearance of the area. Therefore, it would be contrary to Policy GP35 of the Aylesbury Vale District Local Plan (AVDLP) (2004) and Paragraph 127 of the National Planning Policy Framework (The Framework). These policies seek to ensure that new development respects and complements the existing characteristics and context of the site and its surroundings.

Living conditions

9. The proposed dwelling would be located approximately 35 metres to the rear of the existing dwellings on Aylesbury Road. Due to the orientation of the proposed dwelling and the sky lights in the roof on the front elevation, there would not be direct overlooking towards the neighbouring properties on Aylesbury Road. Therefore, the living conditions of the occupiers in regard to privacy, would not be materially harmed.
10. The proposed dwelling would also be positioned approximately 35 metres from the building of St Breward. However, it would be in close proximity to the boundary and the private garden associated with the adjacent property. Due to the positioning of the proposal and the location of its dormer windows and balcony to the rear, some views to the garden would be possible and it would give a sense of being overlooked. I note that due to the size of the adjacent garden there would not be direct views across all of the garden and that vegetation is present between the properties. Nevertheless, the vegetation between the properties cannot be considered as a permanent feature and some views of the garden would be possible, and the introduction of the balcony and

dormer windows would be particularly apparent to the occupiers of the adjacent property.

11. I find that the proposed development would harm the living conditions of the occupiers of the neighbouring property, with particular reference to privacy. Therefore, it would be contrary to Policy GP8 of the AVDLP and Paragraph 127 of the Framework. These policies seek to ensure that new development does not harm the living conditions of nearby residents.

Other Matters

12. I note that interested parties and those consulted on the application have raised a number of other concerns including highway safety, potential presence of Great Crested Newts, noise and disturbance and setting a precedent. However, as I have already identified harm above, it is not necessary to consider these further. The effect of property values was also raised, however, this is not a determinative factor for the appeal.

Planning Balance and Conclusion

13. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that the determination of applications should be made in accordance with the development plan unless material considerations indicate otherwise.
14. The Council has stated that it can demonstrate a 5-year supply of housing land and this is not an area of dispute between the parties. However, the appellant has suggested that the plan is out-of-date and that paragraph 11 of the Framework is therefore engaged which provides the context for the determination of the appeal.
15. Paragraph 11 of the Framework states that where the development plan is out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, or there are specific policies in the Framework which indicate that development should be restricted. In this case, from the evidence before me, there are policies in the Framework which indicate that development should be restricted.
16. Although the AVDLP is a number of years old, paragraph 213 of the Framework states that existing policies should not be considered out-of-date simply because they were adopted, or made prior to the publication of the Framework, and that due weight should be given to them according to their degree of consistency with the Framework.
17. In the context of the development plan, I have found that the proposed development would be contrary to policies GP35 and GP8 of the AVDLP. For this appeal, I have found these policies to be generally consistent with the relevant aims of the Framework and I attach substantial weight to them. I have found harm to arise in the context of the policies stated above, therefore, the proposal would not accord with the development plan when considered as a whole.
18. The proposal would provide a limited amount of short-term employment through the construction of the development and some further modest benefits would result from the additional support to the vitality of the local community from the future occupiers of the new house. One new house would make a very

modest contribution to the supply of housing. In terms of sustainable transport, there are alternative methods to the private car to access services. The proposal would also make use of land associated with No 33. Despite the benefits put forward by the appellant, the proposal, would result in harm to the character and appearance of the area, and would result in harm to the living conditions of the occupiers of the neighbouring property. As such it would be contrary to the aims of the Framework to support high quality design and protect the living conditions of neighbouring occupiers.

19. Overall, I find that the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole. Therefore, the proposal would not represent sustainable development.
20. Consequently, having had regard to all other matters raised, I conclude that the appeal should be dismissed.

D Peppitt

INSPECTOR