
Appeal Decision

Site visit made on 10 March 2020

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th March 2020

Appeal Ref: APP/J0405/W/19/3243977

Westfield Farm, Mill Lane, Great Brickhill, MK17 9BG

- 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 Mr J Cox against Aylesbury Vale District Council.
 - The application Ref 19/01646/APP, is dated 16 April 2019.
 - The development proposed is erection of detached outbuilding for ancillary purposes.
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Decision

1. The appeal is allowed and planning permission is granted for erection of detached outbuilding for ancillary purposes and changing room building at Westfield Farm, Mill Lane, Great Brickhill, MK17 9BG in accordance with the terms of the application, Ref 19/01646/APP, dated 16 April 2019, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not 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: L4597 PL/02 Rev B; L4597 PL/03; L4597/01B.
 - 3) The pavilion building hereby approved shall only be used for private use, incidental to the residential occupation of Westfield Farm and shall at no time be used for commercial or business purposes.

Procedural Matter

2. I have sought confirmation from the parties as to the plans upon which the appeal should be determined. The Council have confirmed that their evidence was based on the originally submitted plans, however they are willing to accept that the plan numbers stated by the Appellant (L4597PL/01B) illustrate the most up-to-date design of the development and therefore, I have based my decision on the amended plan L4597PL/01B which was received by the Council prior to the appeal having been submitted and therefore I do not consider this will result in any prejudice to any party.
3. Within the evidence before me reference has been made to the Council's emerging Local Plan. However, as I am unaware of the extent and content of unresolved objections to the plan, I can only afford its policies limited weight in my decision. I have relied upon the policies within the Aylesbury Vale District Local Plan 2004 (LP) in coming to my decision.

4. The description of development in the heading above has been taken from the planning application form. However, changes were made to the scheme during its consideration to include an existing changing room that has been constructed on the site without express planning permission. This was agreed with the appellant following amendments made to the scheme during its consideration and I have therefore included this in my formal decision.

Main Issues

5. The main issues are:

- the effect of the development on the character and appearance of the area;
- whether the site represents an appropriate location for the proposed development in terms of the need to travel;
- the effect of the proposal on parking conditions, and consequently highway safety.

Reasons

Character and appearance

6. The appeal site comprises the dwelling, Westfield Farmhouse with landscaped areas to the front, side and rear of the dwelling which include a swimming pool, tennis court and garaging. To the rear of the dwelling are a range of former agricultural buildings which have been converted to commercial uses. The proposed pavilion would be sited towards the front of the site within a smaller area of land enclosed by recently planted hedgerows.
7. The wider area is characterised by agricultural fields but whilst its intrinsic character is rural due to its open nature with only sporadic residential and commercial development, it is very close to the urban settlement of Milton Keynes.
8. The Farmhouse and gardens are well screened from the road, due to the existence of an established hedgerow which extends along the frontage of the site, adjacent to Mill Road. The extent of the hedge and its overall height would prevent views of the proposed pavilion from the road. The Council have made reference to a public footpath where views of the site would be possible, however I consider that given the distance from the site any views would be limited and would be viewed against the backdrop of the existing built development on the site.
9. The site is located within the Greater Brickhill Area of Attractive Landscape (AAL) which is a locally designated level of landscape protection. The Council except that due to the established use of the land for informal private leisure activities the impacts on natural capital and the ecosystem have already occurred. The use of the land was considered to be acceptable in the AAL having regard to the combination of the small size of the plot in relation to the wider AAL and the general openness of the site which mitigated any impacts.
10. The scale of the development, having regard to the overall size of the site in relation to the AAL would not reduce the perception of openness in the locality. Nor would the development have an adverse effect on the rural character of

the wider area, taking into account its setting within the wider domestic and commercial use of the site as a whole.

11. In conclusion the development would not result in harm to the character and appearance of the area and complies with policies GP.35, RA.4 and RA.8 of the LP which require development to respect the characteristics of their surroundings and respect the landscape character of the area.

Location

12. The Council accepts that within the countryside domestic development is generally restricted to the construction of extensions to, or development within the curtilage of, existing dwellings, providing it is incidental to the use of the dwelling. The Council accepts that the land is used for informal private leisure activities and it is agreed by the parties that the changing room building would be ancillary to the established use of the land.
13. Whilst there is a dispute between the parties as to whether the land upon which the pavilion is to be sited is part of the defined curtilage of the dwelling, It is not for me to determine within the context of a S.78 appeal, the lawful use of the land and is open to the appellant to seek a determination under S191 of the Act in relation to this matter. That said, the land lies adjacent to the access from Mill Lane, to the front of the dwelling and part of this area already accommodates a tennis court. The site is laid to grass and has been planted with hedging and this leads to the site's appearance of a domestic garden.
14. The site is located within the Countryside, however the building would be for an ancillary use to the domestic occupation of Westfield Farm. The appellant does not seek planning permission for a new dwelling or for a business or public use. Therefore it would not be generating additional trips over and above that of the occupants of the existing dwelling and their domestic visitors. Consequently, I do not consider that the location is unjustified, and there is no requirement for the development to provide public benefits as it is for private use.
15. It has been put to me that the proposal is contrary to Policy RA.3 of the LP, which resists proposals for the extension of residential and other developed curtilages beyond the built-up area of settlements that would adversely affect the character and appearance of Rural Areas. However, I have already found that it would not harm the character and appearance of the area.
16. The council has not directed me towards any policies relating to domestic outbuildings but has referred to policy RA.4 of the LP. However, the supporting text to RA.4 suggests a diverse range of recreational activities can provide an important source of income and employment for the rural economy. The proposed development is for domestic purposes and therefore it is not intended for any commercial use and therefore would not contribute to the rural economy. In addition, the policy is generally aimed at uses or sports that are not appropriate within or adjacent to settlements and does not appear directly related to the use of buildings within a domestic setting.
17. I do not agree that a further building on the site could establish a commercial use of the site, or a more intensive recreational use of the site. The use of the building for ancillary purposes to the domestic occupation of Westfield Farm can be controlled by condition.

18. However, the policy does require development to have regard to the siting and design of the building and the visual effect of any car parking and access roads. I consider that these parts of the policy are relevant to the consideration of the other main issues. The Council have also directed me to policy GP.35 which deals with the design of new development, and therefore is not directly relevant to this main issue.
19. In conclusion, I consider that the location of the proposed development is appropriate. There is no conflict with policies RA.4 and RA.3 of the LP, in so far as they are relevant to this application.

Parking Conditions

20. Policy GP.24 of the LP requires new development to provide vehicular parking in accordance with Council's guidelines, published as Supplementary Planning Guidance. However, no reference has been made to Supplementary Planning Guidance within the Council's evidence nor has it supplied me with a copy. However, the site currently has a number of areas where vehicles can be parked within its grounds and has access to a number of other areas within its ownership where vehicles can be accommodated.
21. The Council have also referred to policy RA.4 of the LP which requires proposals for recreational use of land to have regard to the visual effect of car parking and access roads. The car parking and access roads currently exist and form part of both the domestic use of the application site and the commercial use of the adjoining buildings.
22. The proposal is for a domestic pavilion to host family gatherings, therefore whilst access to the site via public transport is limited, this is the same as when those family members visit the house and attend gatherings within the garden. The appellant has confirmed that the proposed pavilion is to be used for family use for personal recreational/entertaining use and this may, at times, include up to 50 guests. This would be for occasional use with around 2 events per year and any material deviation from the use of the building for anything beyond ancillary to the dwelling would be a breach of planning control. Having regard to the size of the site and the scale of the host dwelling I consider that these gatherings would be possible within the existing site and the appellant has provided evidence to indicate that these gatherings have taken part at the site previously.
23. The Council have not set out a figure in relation to the number of spaces they would expect to be provided for the pavilion. However, the appellant has demonstrated that the site could provide 45 parking spaces and therefore taking into account the use is for domestic purposes, and family groups are likely to travel in the same car, I consider that adequate parking provision is available to meet the requirements of the proposed use. Therefore, the proposal would not result in an unacceptable level of additional pressure on off-site parking detrimental to highway safety.
24. In conclusion, the effect of the proposal on parking conditions, and consequently highway safety would be acceptable and would comply with policies GP.24 and RA.4 of the LP, as the development would be served by an appropriate level of parking and these areas, which currently exist, will not result in an adverse visual effect on the area.

Conditions

25. The Council has suggested 5 conditions and I have considered these in light of the Planning Practice Guide and the tests of the Framework and where necessary amended them for clarity. In addition to the standard implementation condition it is necessary, for the avoidance of doubt, to define the plans with which the scheme should accord. I consider that it is necessary to impose a condition restricting the use of the pavilion to limit commercial or business uses noting the countryside location of the building.
26. I have not imposed a condition requiring the submission of details of materials as these have been specified on the submitted plans. I have also not imposed a condition requiring details of foul and surface water drainage. The small scale nature of the proposal and the lack of internal fixtures and fittings such as bathroom and/or kitchen means that I do not consider such a condition necessary.

Conclusion

27. For the reasons given above I conclude that the appeal should be allowed.

G. Pannell

INSPECTOR