



Appeal Decision

Site visit made on 2 June 2020

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th June 2020

Appeal Ref: APP/J0405/W/20/3246196

Land Opposite Flora Avenue, Stablebridge Road, Aston Clinton HP22 5FR

- 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 outline planning permission.
 - The appeal is made by Mr John Cattermole against Buckinghamshire Council – Aylesbury Area.
 - The application Ref 19/04191/AOP, is dated 25 November 2019.
 - The development proposed is described as 'outline planning permission with access at Stablebridge Road, Aston Clinton, HP22 5FR for 3 self-build / custom-build plots - all other matters reserved'.
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Decision

1. The appeal is dismissed and planning permission is refused.

Procedural Matters

2. The application was originally submitted to Aylesbury Vale District Council. On 1 April 2020, Aylesbury Vale District Council, along with a number of other councils, merged into a single Unitary Authority called Buckinghamshire Council. I have referred to the authority's new name in the heading above.
3. The application was not determined within the prescribed period. Following submission of the appeal, the Council prepared an appeal statement. This indicates that had the Council determined the application, planning permission would have been refused and I have had regard to the putative reason given for refusal within my decision.
4. The application was made in outline with all matters reserved except for access which is to be considered at this stage. I have had regard to the plans submitted as part of the application. However, I have considered all elements of these drawings as indicative, apart from the details of the access.
5. The Aston Clinton Neighbourhood Plan 2018 (ACNP) indicates that the appeal site is part of a designated local green space. However, the appellant and Aston Clinton Parish Council both confirm that this is an error and the site is not designated as local green space. I have considered the appeal on this basis.

Main Issue

6. The main issue in this appeal is whether or not the proposed development would provide a suitable location for housing, having regard to the effect of the development on the character and appearance of the area and the provisions of the development plan.

Reasons

7. The appeal site is located to the west side of Stablebridge Road. As it passes the site, Stablebridge Road forms the boundary of the village of Aston Clinton as defined by Policy H1 of the ACNP. The site is therefore adjacent to, but outside of the settlement and is considered to be within the countryside in planning policy terms.
8. For the most part, the site comprises an area of open and undeveloped grass. Green Park Activity Village training and conference centre to the south is set apart from the site by an area of dense woodland, while open grassland separates the site from buildings located within Aston Clinton along London Road to the north. As a consequence, there is a pleasant and distinctly open and rural character and appearance to the west side of Stablebridge Road around the appeal site. This contributes to the setting of the village, and contrasts noticeably with the east side of Stablebridge Road. Here, the modern housing development accessed at Flora Avenue, together with a number of detached buildings fronting the street on the approach to London Road result in a more built-up character. Stablebridge Road therefore forms a clearly visible natural boundary between the existing built-up area of Aston Clinton, and the surrounding countryside beyond.
9. Within the countryside, ACNP Policy H1 advises that other than rural housing exception schemes, development will not be supported unless it meets certain criteria. The proposal would not involve the re-use of redundant, disused or well-designed new buildings, and I have not been provided with any specific evidence to demonstrate that it would promote the development or diversification of agricultural or other landbased rural businesses. The development in the countryside would therefore conflict with Policy H1.
10. The evidence before me does not suggest that the appeal site is part of a valued landscape in the terms of paragraph 170 of the National Planning Policy Framework (the Framework). Even so, while the level of protection is not as great as for a valued landscape, paragraph 170 goes on to set out the need to recognise the intrinsic character and beauty of the countryside.
11. The layout, scale, appearance and landscaping of the proposed development are reserved for future consideration. The self-build nature of the proposal means that the 3 dwellings would be individually designed, but I see no reason that it would not be possible for the scale, design and materials of the buildings to relate sympathetically to existing development in the area. I also note that as part of the appeal, the appellant has submitted a Design Code which refers to principles for the detailed design of development on the site.
12. However, the intrinsic character and qualities of the countryside derive in part from areas largely uninfluenced by built form. The proposed dwellings themselves, as well as their curtilages and the domestic paraphernalia typically associated with residential buildings, would transform the existing open site to a housing development. Irrespective of potential controls over the scale and detailed design of the dwellings, this would significantly alter the open and rural character and appearance of the site and countryside to the west of Stablebridge Road.
13. Given the scale of the development, the effect of the proposal on the wider countryside and the separation between Aston Clinton and surrounding villages

would be fairly localised. However, this does not mean that it is necessarily acceptable. Notwithstanding some screening by vegetation to the boundaries of the site and potential to reinforce this as part of detailed landscaping proposals, the urbanising impact of the development would be clearly apparent, including in views from Stablebridge Road as well as in views from London Road across the open grassland to the north of the site.

14. Although in some cases, it would be viewed in the context of existing buildings to the east side of Stablebridge Road, the proposal would breach the natural settlement boundary provided by Stablebridge Road. As a consequence, the development would be seen as separate from the established built form around Aston Clinton, and would result in an intrusive and unwelcome encroachment of built form into the open countryside. This would cause significant harm to the intrinsic character and beauty of the countryside, and would detract from the rural setting of Aston Clinton.
15. I therefore conclude that the proposal would not meet criteria for development outside of the defined settlement boundary outlined within ACNP Policy H1, would cause harm to the character and appearance of the area and the development would not provide a suitable location for housing. Accordingly, and there would be conflict with saved Policy GP.35 of the Aylesbury Vale District Local Plan 2004 (AVLP) and Policies H1 and HQD1 of the ACNP. Broadly, these policies seek development that respects and complements local character and the physical characteristics of a site and surroundings, as well as the natural qualities and features of the area.
16. For similar reasons, there would be conflict with Policies BE2 and NE4 of the emerging Vale of Aylesbury Local Plan (VALP). The VALP has been the subject of examination and the Council advise that main modifications to the VALP requested by the Inspector have been subject to consultation. It is therefore at an advanced stage. However, from the information before me, modifications to Policies BE2 and NE4 and responses to consultation are subject to consideration by the examination Inspector. I cannot therefore be sure that they will be adopted unchanged, and with regard to paragraph 48 of the Framework, I afford less weight to the conflict with these policies.

Other Matters

17. A Preliminary Ecological Assessment dated November 2019 was submitted as part of the appeal and indicates habitats on site with potential to support great crested newts. The Council has provided a 'South Midlands Great Crested Newt District Licensing Scheme Certificate' for the proposal. This indicates that the development could be covered under the terms of a District Licence, and outlines a recommended planning condition. The expiry date indicated on the certificate has now passed, but from the evidence before me, I am satisfied that suitable measures could be secured to ensure that the development would not harm protected species.
18. The appellant's evidence refers to decisions in other appeals concerning proposals for self-build development. The limited information supplied means I can draw little detailed comparison with the appeal before me, but I note that the appeal at Hepworth Road¹ related to a much larger proposal for 30 plots,

¹ Appeal reference APP/G2435/W/18/3214451

and the extract from the decision on the site at Green End/Heath Road² suggests that the proposal would not have a significant visual effect on open countryside. Moreover, both are within different authorities with their own policy considerations. Accordingly, I find that these examples are not directly comparable to the appeal proposal before me which I have in any case considered on its own merits.

19. I note the appellant's indication that comments made by the Council on the suitability of the site for development referencing the findings of the Housing and Economic Land Availability Assessment 2017 do not relate to the appeal site. Nevertheless, this is not a matter which affects my consideration of the main issue in the appeal before me.

Benefits and Planning Balance

20. The Council's Five Year Housing Land Supply Position Statement April 2019 concludes that there is a 5 year housing land supply. I note that the Council have referred to ongoing work to update the assessment, however, no detailed information or calculation has been provided. I can therefore place little weight on the assertion that there remains a 5 years supply.
21. The proposal would conflict with saved Policy GP.35 of the AVL P and Policies H1 and HQD 1 of the ACNP. These policies are therefore most important for determining the proposal, but in accordance with the provisions of the Framework would be considered out of date if there is a shortfall in housing land supply. In those circumstances, paragraph 11 of the Framework indicates that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole.
22. ACNP Policy H1 includes provisions relating to the boundary of Aston Clinton and acts to restrict development beyond this in the countryside. It therefore affects the supply of housing, and in a scenario where housing requirements were not being met, this would reduce the weight afforded to the conflict with this policy. However, insofar as they seek well designed places that are sympathetic to local character including the surrounding built and natural environment and landscape setting and character, saved Policy GP.35 of the AVL P and Policy HQD 1 and H1 of the ACNP are broadly consistent with the expectations of the Framework. The conflict with these policies would therefore carry significant weight. The harm that would be caused to the character and appearance of the site and countryside would also conflict with the requirement at paragraph 170 of the Framework to recognise the intrinsic character and beauty of the countryside.
23. Set against this, the 3 dwellings proposed would add to the supply of housing locally. The appeal site is located on the edge of Aston Clinton where there are a range of local shops and services which would be accessible by cycle or on foot. There are also nearby bus stops which would be accessible to future occupiers. Travel by modes other than the private vehicle would therefore be supported. There would also be some further short-term economic benefits during the construction period as well as support for the local economy by future occupiers, and associated social benefits to the community. However, the small scale of the proposed development means the contribution to housing

² Appeal reference APP/W0530/W/19/3230103

supply would be fairly limited and tempers the extent of these benefits. I therefore afford them moderate weight overall in the planning balance.

24. Potential for biodiversity enhancements and additional planting as part of development on the site would depend on the layout, scale, appearance and landscaping of the development. These are matters reserved for future consideration, and the absence of firm details on the scope of enhancements limits the weight I afford these benefits. The location of the site outside of the Green Belt and coastal areas, as well as compliance with development plan policies and the Framework in relation to matters including trees, heritage assets, flooding, access, pollution, contamination or land instability are neutral factors in the planning balance and weigh neither for nor against the proposal.
25. In support of the appeal, the appellant refers to the Self-build and Custom Housebuilding Act 2015 (as amended) (the Act). Footnote 26 of the Framework highlights that under the Act, relevant authorities have a duty to have regard to the demand for self-build or custom housebuilding (SBCH) in their area and to give enough suitable development permissions to meet the identified demand. The Planning Practice Guidance³ advises that the level of demand is to be established according to the number of entries added to an authority's register of people who are seeking to acquire a serviced plot for SBCH during a base period. It further notes that authorities have 3 years following the end of each base period in which to grant permission for an equivalent number of plots of land.
26. The appellant has not challenged figures provided by the Council indicating that in the initial base period of April 2016 to 30 October 2016, 3 entries were made on Part 1 of the SBCH register⁴, and 5 entries in total. For the period 30 October 2018 to 31 July 2019, the Council further advise that there are 28 entries on Part 1 of the register, and 54 entries in total.
27. The Council suggests that a site for 20 plots has been established towards the requirement for SBCH, but have not provided details of the site or permission relied on. Notwithstanding the appellant's comments in relation to whether or not plots on a site at Furze Lane⁵ deliver SBCH as sought by the Act, given the very limited evidence before me I cannot be certain of the number of plots, if any, that have been granted permission. Accordingly, I am not satisfied that demand arising from the initial base period had been met by 30 October 2019, and much less the demand from subsequent periods.
28. Neither have I been provided with details of any other sites likely to deliver SBCH plots in future, or directed to any current development plan policies which support SBCH development. Policy H5 of the emerging VALP would require a percentage of dwellings to be provided as plots for SBCH on developments exceeding 100 dwellings and I note the Council's suggestion that this will accelerate future provision. However, this policy is not currently adopted. Moreover, I do not know the number of SBCH plots which would potentially be deliverable under Policy H5 should it become part of the development plan as outlined.

³ Paragraph: 023 Reference ID:57-023-201760728

⁴ Where eligibility and local connection tests are met by applicants

⁵ Application reference 13/02837/A

29. From the evidence before me, it has not been demonstrated that duties relating to provision of plots for SBCH are currently being fulfilled, and I can have limited confidence in the extent to which demand may be met in future.
30. The appeal proposal is intended to provide 3 plots for self-build and I note that the appellant suggests that the dwellings would provide for local families wanting to build their own home. This would make a small but significant contribution against the apparent shortfall in provision of plots for SBCH to meet demand, and the duty to give enough suitable development permissions to meet the identified demand for SBCH is an important material consideration in favour of the proposal.
31. In this regard, the appellant has submitted a purported planning obligation by way of a Unilateral Undertaking pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) seeking to secure the development as SBCH. However, this is in draft. In the absence of a signed and completed legal agreement, there is no mechanism before me to ensure that the proposal would be developed in a manner that reflects the legal definition of SBCH in the Act. Accordingly, this qualifies the weight I can afford to this benefit.
32. In any event, while the provision of SBCH plots would be fairly significant as a proportion of the identified demand and I give significant weight to the demand for SBCH and duties under the Act in this regard, the Act does not provide for the approval of self-build plots irrespective of, or as an exception to, the provisions of the development plan or other relevant matters.
33. In addition to conflicting with policies in the development plan relating to suitable locations for housing, I have found that the development would cause significant harm to the character and appearance of the area. Even if I were to find that the Council did not have a 5 year supply of housing, in the context of paragraph 11(d) of the Framework I find that the adverse impacts of the development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The proposal would not therefore benefit from the presumption in favour of sustainable development set out at paragraph 11(d).
34. I am required to determine the appeal in line with the relevant policies of the development plan, unless material considerations indicate otherwise. Notwithstanding the duties under the Act, I find that the benefits of the scheme, whether considered individually or cumulatively, do not outweigh the harm I have identified. The proposal conflicts with both the development plan and the Framework when each is considered as a whole, and there are no material considerations which suggest the decision should be taken otherwise than in accordance with the development plan.

Conclusion

35. For the reasons given above, I conclude that the appeal should be dismissed.

J Bowyer

INSPECTOR