



Appeal Decision

Site visit made on 8 June 2020

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 June 2020

Appeal Ref: APP/J0405/W/20/3246736

4 Catherine Cottages, Calvert Road, Middle Clayton, MK18 2HA

- 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 Philip and Victoria Claridge against Buckinghamshire Council – Aylesbury Area.
 - The application Ref 19/03429/APP, is dated 19 September 2019.
 - The development proposed is erection of an attached dwelling and minor alterations to the existing house.
-

Decision

1. The appeal is dismissed and planning permission refused.

Application for costs

2. An application for costs was made by Philip and Victoria Claridge against Buckinghamshire Council – Aylesbury Area. This application is the subject of a separate Decision.

Procedural Matters

3. During the course of the appeal, the council who originally determined the planning application merged with a number of other local planning authorities into Buckinghamshire Council. The details in this decision reflect this change.
4. The emerging Vale of Aylesbury Local Plan (eVALP) has been the subject of examination and Main Modifications to the Submission Plan were published for consultation in October 2019. The Council has referred to eVALP policies S2, D5, BE2 and NE4 and has advised that the examining Inspector requested main modifications be made to all of these policies. No responses to the consultation process have been provided and so I am uncertain as to the likelihood of the eVALP policies being adopted in the form presented to me. As such and in light of paragraph 48 of the National Planning Policy Framework (the Framework), I attach limited weight to the eVALP policies in my assessment.

Main Issues

5. There is no formal Council decision on the application but in light of the appeal submissions the main issues are (i) whether the proposed development would represent a suitable location for housing having regard to accessibility to services, the Framework and eVALP policies, (ii) the effect on the character and

appearance of the area, and (iii) the effect on biodiversity, especially in regard to great crested newts (GCNs).

Reasons

Suitability of location

6. The site is next to a group of 4 dwellings surrounded by fields and farmland. The proposal would be adjacent to buildings and so would not be isolated but it would be located in the countryside and a significant distance away from the nearest villages. The separation distances and lack of lighting and pavements on local roads would discourage occupiers of the proposal from walking or cycling to facilities. Also, no public transport services operate close to the site. Even when taking into account the general limited opportunity to use sustainable transport in rural areas, occupiers of the proposal would be particularly reliant upon the private car due to the lack of realistic alternatives. As such, the proposal would not be located so as to promote walking, cycling and public transport use.
7. Furthermore, there are no facilities in the cluster of buildings near to the appeal site and so the proposal would have no meaningful effect on the vitality of the immediate rural community. Also, the significant separation distances would make it inconvenient for occupiers to support the services in the closest villages. As such, the proposal would not be located where it would enhance or maintain the vitality of nearby villages.
8. A planning condition that requires occupiers to only use low emission and electric vehicles would be unreasonable and the provision of charging points would not prevent travel to and from the site by other types of car. Therefore, such measures would not address the concerns over accessibility.
9. The developments referred to by the appellant¹ are far from the site and so are not comparable to the proposal in terms of accessibility to services. The conversion of a barn at Nash would be permissible in isolated locations under paragraph 79 of the Framework and so would be markedly different to the proposal. As such, these other decisions have no bearing on my assessment.
10. For the above reasons, I conclude the development would not be in a suitable location when having regard to accessibility. In this regard, it would be contrary to the Framework which seeks, amongst other things, to manage development so it promotes sustainable transport and to locate rural housing where it would enhance or maintain the vitality of communities.
11. The proposal would be at the end of a line of houses rather than the infilling of a small gap in a developed frontage. As such, I conclude the development would not comply with eVALP policies S2 and D5 which set out where housing would be permissible in rural areas. However, I attach limited weight to this conflict as these policies do not yet form part of the development plan.

Character and appearance

12. The appeal property (No 4) is one of a pair of semi-detached houses next to another pair of dwellings all of which are similar in appearance despite various

¹ Council reference number 17/04184/APP (Nash, Milton Keynes), Council reference number 19/00623/APP (Shabbington), Appeal reference number APP/J0405/W/19/3229920 (Gibraltar), Appeal reference number APP/J0405/W/19/3234192 (Bishopstone) and Appeal reference number APP/K0235/W/19/3221112 (Kempston)

alterations and additions. The lack of front boundary treatment allows clear views from the road of the houses and surrounding fields, trees and hedges. Notwithstanding the dwellings, the area is predominantly rural in character.

13. The proposal would fill most of the space to the side of No 4 and so would visually reduce the site's openness. Also, it would block views from the road of a tree and hedgerow to the rear. As such, it would fail to respect the predominant open and rural nature of the area.
14. Furthermore, by reason of its positioning and its significant width and height, the proposal would introduce a marked sense of imbalance to the pair of houses. This loss of symmetry would be incompatible with the pattern of development and would not be addressed through the use of matching materials or tree screening. No terraced housing is visible from the site and so its presence in the wider area fails to justify the design of the proposal.
15. For these reasons, the development would cause significant harm to the character and appearance of the area. As such, in this regard, it would be contrary to policy GP.35 of the Aylesbury Vale District Local Plan 2004 and the Framework. These aim, amongst other things, to ensure developments respect their surroundings and local distinctiveness. For the same reasons, the proposal would also be contrary to policy BE2 of the eVALP, although I attach limited weight to this conflict as this policy is not part of the development plan.

Biodiversity

16. Habitat Regulations² impose a duty on me to consider whether European Protected Species (EPS) would be affected by the proposal and whether mitigation measures would be effective in addressing any harm. Paragraph 175 of the Framework states that permission should be refused if significant harm to biodiversity caused by development cannot be avoided.
17. The appellants do not dispute the Council's claim that the site lies within 500 m of ponds and so would be in an area where GCNs may be affected by the proposal. The site forms part of a garden but no ecological survey assessment has been submitted that demonstrates the development would not cause risk of harm to GCNs. Given the proximity of the ponds and the open nature of the surrounding land, there is a reasonable likelihood that the proposal would affect GCNs which are listed as an EPS under the Habitat Regulations.
18. The appellants suggest that this issue could be addressed through a Council licensing scheme or the imposition of a planning condition. However, Government advice³ says it is essential to establish the extent to which EPS may be affected by a proposal before granting planning permission. Furthermore, without an appropriate ecological survey and assessment, I am unable to carry out my duty to properly assess whether EPS would be affected and if so whether any impacts could be addressed through appropriate mitigation. The failure of the Council to raise this matter as a concern prior to the submission of the appeal does not override my duty.
19. For these reasons, I conclude that insufficient information has been provided that demonstrates the proposal would not have a harmful effect on biodiversity, particularly GCNs, or that any harm caused could be appropriately

² The Conservation of Habitats and Species Regulations 2017

³ Paragraph 99 of the Office of the Deputy Prime Minister Circular 06/2005

mitigated. Consequently, and in this regard, the development would be contrary to the Framework which aims, amongst other things, to avoid harm to biodiversity unless appropriate mitigation is provided.

Other Considerations

20. There are no up-to-date housing supply development plan policies. In such circumstances, paragraph 11 d of the Framework states permission should be granted unless the adverse impact of doing so would significantly and demonstrably outweigh the benefits of the proposal when assessed against the Framework policies as a whole.
21. There would be no inter-visibility between the proposal and Claydon Historic Park and Garden or the conservation area containing listed buildings to the east of the site. As such, the proposal would cause no harm to the significance of these heritage assets. Also, the development would be acceptable in terms of highway safety, parking provision, the quality and quantity of internal and external space and the effect on the living conditions of occupiers of other property. Acceptability in all of these regards is a neutral factor in my assessment rather than a benefit that attracts positive weight.
22. The proposal would be windfall development and would make more efficient use of previously developed land, but these benefits attract limited weight as the site would be in an unsuitable location for the reasons already identified. The proposal would contribute to the housing stock and would create construction employment. Also, future occupiers may support local services. These benefits attract modest weight as the proposal is for 1 dwelling.
23. Paragraph 130 of the Framework states planning permission should be refused for development of poor design and so I attach significant weight to the harm that would be caused to the area's character and appearance. Also, in light of paragraph 175 of the Framework, I attach moderate weight to the lack of information that shows the development would avoid harm to EPS. I attach moderate weight to the proposal's failure to comply with Framework policies that seek to promote sustainable forms of transport and to locate rural housing where it would support the vitality of existing rural communities.
24. Overall, I find the harm caused by the proposal would demonstrably and significantly outweigh its benefits when assessed against the policies of the Framework as a whole. As such, the presumption in favour of sustainable development as set out at paragraph 11 of the Framework does not apply.

Conclusion

25. The proposal would conflict with the saved policies of the development plan. Also, it would not comply with eVALP policies and would not benefit from the presumption in favour of sustainable development as set out in the Framework. As such, I conclude the appeal should be dismissed.

Jonathan Edwards

INSPECTOR