



Appeal Decision

Site visit made on 1 September 2020

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 September 2020

Appeal Ref: APP/J0405/W/20/3252348

Land South of Oving Road, Whitchurch HP22 4ES

- 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 Reeve Farms Ltd against Buckinghamshire Council - Aylesbury Area.
 - The application Ref 19/04101/AOP, is dated 12 October 2019.
 - The development proposed is erection of seven detached and semi-detached two-storey dwellings with access, parking and amenity space.
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Decision

1. The appeal is dismissed and planning permission refused.

Procedural Matters

2. 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.
3. The application sought outline planning permission and approval for details of access. I have assessed the access details provided but treated the layout and landscaping information as being submitted for illustrative purposes.
4. A revised layout drawing¹ has been submitted that was not before the Council at the time the appeal was lodged. The drawing is submitted for illustrative purposes and the amendments do not significantly alter the proposal. As such, no prejudice would be caused by taking it into account in my assessment.
5. In response to the Council's punitive refusal reasons, the appellant has submitted a unilateral undertaking under section 106 of the Town and Country Planning Act 1990. This would require the payment of a sport and leisure contribution as well as the submission and approval of a drainage scheme. I have taken the planning obligations into account.
6. Main modifications to policies of the emerging Vale of Aylesbury Local Plan (eVALP) have been published for consultation. The eVALP policies referred to by the Council are subject to modifications and I am uncertain as to the likelihood of these being adopted in the form presented to me. As such, I attach limited weight to these eVALP policies in my determination of the appeal.

¹ Illustrative Site Plan numbered P102B.

Main Issues

7. In light of the Council's appeal statement, the main issues are (i) the effect on the character and appearance of the area, (ii) the effect on trees and hedgerows, (iii) the provision of affordable housing and (iv) the planning obligations.

Reasons

Character and appearance

8. The site forms the front part of a field with houses on the opposite side of the road and dwellings under construction to the east. Despite the nearby buildings, the site's openness and mature roadside vegetation provide a distinct rural appearance that adds positively to the visual attractiveness of the area.
9. The proposal would significantly reduce the openness of the site, markedly change its appearance from pasture to residential development and so would diminish the rural nature of the road approach towards Whitchurch. New planting to supplement existing vegetation could be incorporated as part of the scheme but this would not entirely screen the houses from the road, the adjacent public footpath and nearby properties.
10. The proposal would follow the linear pattern of development along Oving Road and could be designed to be compatible in appearance and layout with nearby houses. However, acceptability in these regards would fail to address or override the harm caused through the erosion of the area's rural character.
11. For these reasons, I conclude the proposal would harm the appearance and character of the area. In this regard, it would be contrary to policies RA.8, GP.35 and GP.38 of the Aylesbury Vale District Local Plan 2004 (LP). Amongst other things, these policies aim to ensure development respects an area's character.

Trees and hedgerows

12. The proposal would retain the roadside hedgerow and mature trees on the site and the indicative plan shows a development that would avoid encroachment into tree root protection areas. Also, there would be adequate space for roadside footways and visibility splays to serve the proposal without the need to remove trees or any significant lengths of hedgerow.
13. As such, I conclude the proposal would not have a harmful effect on trees and hedgerows. In this regard, it would be in accordance with LP policies GP.39 and GP.40 which aim, amongst other things, to avoid the loss of trees and hedgerows of value.

Affordable housing

14. Paragraph 63 of the National Planning Policy Framework (the Framework) states that affordable housing should not be sought for schemes that are not major developments, defined under Annex 2 of the Framework as schemes for 10 or more homes or where the site is greater than 0.5 ha. The application form states the appeal site measures 0.47 ha. The Council suggest that the additional area required for splays measures 0.2 ha but it is a strip of land that is relatively small compared to the appeal site. Instead, I accept the appellant's suggestion that the splay area measures about 0.015 ha. As such, even if the

land required for visibility splays is included, the site area would measure 0.485 ha and so less than 0.5 ha.

15. The Council also contend that the extent of the site has been deliberately restricted as its southern boundary does not follow an existing fence. However, the exclusion of the strip of land along the boundary from the site's area is justified as is not required to enable the development to be carried out.
16. For these reasons, the proposal would not represent major development. As such, I conclude that there is no justification under the terms of the Framework to require the provision of affordable housing as part of the proposal.

Planning obligations

17. The Written Ministerial Statement of November 2014² (WMS) states that tariff style contributions should not be sought for schemes of 10 units or less or which have a maximum combined floor space of 1000 m². I attach limited weight to LP policies GP.86 and GP.88 as they fail to reflect the WMS provisions in this regard. Information provided indicates the proposal would be below the thresholds and so the contribution towards sports and leisure facilities is not required under the terms of the WMS. As such, this planning obligation is unnecessary and so cannot be a reason for granting planning permission.
18. Further information is required in respect of the drainage systems to serve the proposal. The drainage planning obligation requires the submission and approval of such information and so is necessary.

Other considerations and planning balance

19. The proposal would not result in the loss of high grade agricultural land, would not harm features of ecological interest and would have no effect on any heritage assets. There is no substantive evidence that shows the proposal would lead to unacceptable impacts on highway capacity or safety. Also, the development would safeguard the living conditions of occupiers of nearby properties and would include adequate drainage facilities. Acceptability in these regards is a neutral factor in my assessment.
20. The appeal proposal would differ from the adjacent development as it relates to another site and would have a different and particular effect on the rural setting of the village. Also, the development would provide less dwellings with no affordable housing. As such, it would not be inconsistent with the previous decision³ to dismiss the current appeal.
21. The proposal would contribute to the housing stock, although the evidence indicates a five years housing land supply can be demonstrated. The proposal would also create construction employment and future occupiers would support local services and businesses. Given the number of units proposed and the housing land supply situation, I attach modest weight to these benefits.
22. The Council state that the LP policies relating to the supply of housing are out of date. As these are amongst the policies most important for determining the appeal, it follows to consider the adverse impacts of the proposal against its benefits in light of the policies of the Framework when considered as a whole.

² House of Commons: Written Statement (HCWS50), Department for Communities and Local Government, Written Statement made by: The Minister of State for Housing and Planning (Brandon Lewis) on 28 November 2014.

³ Appeal reference number APP/J0405/W/18/3195021.

23. The Framework states permission should be refused for development of poor design that fails to improve the character and quality of an area. Also, it seeks to ensure development recognises the intrinsic character and beauty of the countryside. Given these provisions, I attach significant weight to the harm that would be caused to the rural nature of the site and its surroundings.
24. Overall, I find the adverse impacts of granting permission for the proposal would significantly and demonstrably outweigh its benefits. As such, the presumption in favour of sustainable development at paragraph 11 d) of the Framework does not apply in this case. The proposal would conflict with the development plan when read as a whole and there is no justification to arrive at a decision other than in accordance with development plan policies.

Conclusion

25. For the above reasons, the appeal does not succeed.

Jonathan Edwards

INSPECTOR