
Appeal Decision

Site visit made on 19 August 2020

by Helen B Hockenhull BA (Hons) B. PI MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 15 September 2020

Appeal Ref: APP/J0405/W/20/3244629

Thornbrook House, Risborough Road, Stoke Mandeville

- 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 J Miller, Kier Living against Aylesbury Vale District Council.
 - The application Ref 19/01973/AOP, is dated 22 May 2019.
 - The development proposed is the demolition of existing dwelling and garage building and erection of 6 detached dwellings and associated access and car parking. All matters reserved for subsequent approval except means of access.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing dwelling and garage building and erection of 6 dwellings and associated access and car parking at Thornbrook House, Risborough Road, Stoke Mandeville in accordance with the terms of the application, Ref 19/01973/AOP, dated 22 May 2019, subject to the conditions in the attached schedule.

Procedural Matters

2. The appeal proposal is in outline with all matters reserved for later approval except for the matter of access. The submitted plans, insofar as they show a proposed layout, elevations and landscaping scheme, are for indicative purposes only and I have considered them accordingly.
3. On 1 April 2020, Aylesbury Vale District Council merged with South Bucks District Council, Buckinghamshire County Council, Chiltern District Council and Wycombe District Council to become a single Unitary Authority, Buckinghamshire Council. Until such time as they are revoked or replaced, the development plans for the merged local planning authorities remain in place for the area which they relate to within the Buckinghamshire Council Unitary Authority administrative area. It is therefore necessary, where the development plan contains material that is relevant to the planning judgement to be made in this case, to refer to policies set out in the plans produced by the now dissolved Aylesbury Vale District Council.
4. The appeal was made because of the Council's failure to determine the planning application within the prescribed period. The Council has confirmed in their statement that if they had determined the application it was likely that it would have been refused on the grounds that it would fail to respect, conserve

and enhance the character and appearance of the area and it would result in the loss of a non-designated heritage asset which has not been adequately justified. Furthermore, if the Council had approved the planning application, they would have required a legal agreement to secure off site leisure and recreation facilities and affordable housing. I have had regard to these grounds in formulating the Main Issues.

5. The emerging Vale of Aylesbury Local Plan (eVALP) has been the subject of examination and Main Modifications to the Submission Plan have been published for consultation. At the current time I cannot be certain as to the likelihood of the eVALP policies being adopted in the form presented to me. Having regard to the advanced stage of preparation of the emerging plan and in light of paragraph 48 of the National Planning Policy Framework (the Framework), I give moderate weight to these policies in my decision.

Main Issues

6. In light of the above I consider that the main issues in this case are:
 - the effect of the proposal on the character and appearance of the area;
 - the effect of the proposal on Thornbrook house, a non-designated heritage asset;
 - whether the proposal would make adequate provision for local infrastructure.

Reasons

Character and appearance

7. Thornbrook House forms a large dwelling located to the south of Stoke Mandeville. It lies to the west of Risborough Road and is accessed by a gated private drive. This original mid nineteenth century villa is set back from the road, has been extended and altered over time, and has a mature landscaped garden. The site is surrounded on three sides by a new residential development of 74 homes, known as Whitethorn Gardens, which is currently under construction. This new development has significantly altered the character and appearance of the area such that it now provides the existing built form against which to assess the appeal scheme. At the time of my site visit, Thornbrook House was being used as site offices for the neighbouring development and part of the grassed garden area to the side of the house was being used as car parking for contractors' vehicles.
8. The appeal scheme would provide 6 dwellings in a cul de sac arrangement accessed by a gated drive from Risborough Road. There would be no connection to the wider adjacent development. The appellant advises that there is a small strip of land between the boundary of the appeal site and the highway serving the new dwellings which the appellant does not own. Whilst it may be desirable, it is not possible to provide a vehicular access to the west of the site.
9. I acknowledge that a small gated development is not in keeping with the established pattern of development in the locality. I note that dwellings arranged around a cul de sac are being constructed as part of the neighbouring

Whitethorn Gardens development, so that in principle a built form of this nature would not be at odds with the character of the area.

10. The Council has confirmed that given the context of the site, in particular the development under construction on the adjoining land, the proposal would not give rise to wider landscape harm. I have no reason to disagree with this assessment. The Council consider however that more localised harm would be caused to the street scene, the character of the site, its relationship to its immediate surroundings and the ability of the site to naturally accommodate development without detriment to the character of the village.
11. This southern edge of Stoke Mandeville is characterised by detached dwellings set back in their own landscaped plots with mature trees and vegetation. This gives the area a verdant and pleasant appearance. Thornbrook House has a number of mature trees to the site frontage which contribute positively to the character of the area.
12. The appeal scheme proposes the removable of several trees on the site frontage including ornamental species, conifers and mixed species groups. Three existing trees including a sycamore the subject of a Tree Preservation order would be retained. The loss of this level of tree cover would significantly open up the site. The native hedgerow proposed along the site frontage would be insufficient to mitigate this loss resulting in an adverse impact to the character of the village and the visual amenity of the streetscene.
13. However landscaping forms a reserved matter and the submitted Landscape Plan is indicative only. An improved scheme and alternate layout could be agreed at reserved matters stage. I am therefore satisfied that the character and appearance of the area could be safeguarded. The scheme would therefore comply with Policy GP35 of the adopted Aylesbury Vale District Local Plan (AVDLP) and Policies BE2, NE4 and NE8 of the eVALP. These policies seek to which seek to ensure development respects the physical characteristics of the site and surroundings, the natural qualities and features of the area and the local character and distinctiveness in terms of settlement form.

Non designated heritage asset

14. The Framework in paragraph 197 requires that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect such assets, a balanced judgment will be required having regard to the scale of harm or loss and the significance of the heritage asset.
15. There is dispute between the main parties with regard to the significance of Thornbrook House, a non-designated heritage asset. The Council suggest the property is of local importance and that despite the degradation to its wider setting, is still a locally important building that positively contributes to the character and setting of the immediate area. It holds local value in understanding the former character, appearance and land use of the area.
16. The appellant has prepared a Heritage Statement which concludes that the overall value of Thornbrook House in heritage terms is negligible/low. The main part of the dwelling is considered to be of low significance and the later extensions of negligible significance.

17. Thornbrook House dates from the mid nineteenth century. It comprises a three bay two storey villa with a painted brick exterior and slate roof. It underwent numerous extensions and alterations during the 19th and late 20th century, being converted to a hotel in the 1970's and later in the early 2000's was returned to a 6-bedroom dwelling. A front porch has been added to the front elevation of the building connecting two added bays. Modern extensions lie to the rear of the building. These appear to have been undertaken in several phases resulting in differing rooflines and internal steps between rooms particular at first floor. A further extension has been added to the south side of the front elevation. The original sash windows in the main house have all been lost and replaced with casement windows and in places uPVC double glazed sash type windows. Internally some original features such as floors, fireplaces, staircase and joinery remain. These are typical of a building of this age. Whilst the alterations to the building have had a negative impact on its significance, it still retains some aesthetic value and contributes to local character and distinctiveness.
18. The Council suggest the building holds local value in understanding the former character and land use of the area. The property was formerly a farm holding detached from the village. Ordnance Survey evidence suggests there were a number of outbuildings associated with the main house. These have all been removed. Having regard to the site's current context, I consider that the site retains little significance in this regard.
19. Thornbrook House is set in its own grounds to the southern edge of the village. The new development taking place to the north, south and west of the property has significantly degraded its setting. It will no longer have the appearance of a building on the edge of the settlement. The proximity of some of the new properties on the adjacent Whitethorn Gardens site, will have a significant impact, in effect incorporating the site into a modern development. Furthermore, the HS2 project proposed to the south of the appeal site, whilst likely to be in cutting, would further negatively affect its setting. I note the submitted noise assessment which demonstrates potential for the site to be affected by this infrastructure project.
20. The Framework in paragraph 192, advises that in considering planning applications affecting heritage assets, consideration should be given to the desirability of new development making a positive contribution to local character and distinctiveness. The appellant has prepared a Design Code to achieve a high-quality low-density development. The appeal scheme is however in outline form so that details of layout, scale, appearance and landscaping are reserved for later approval. It is not possible to judge at this outline stage whether the new development would make a positive contribution to local character and distinctiveness as these details are not before me. I accept however that irrespective of the merits or otherwise of the indicative plans, these details can be agreed at reserved matters stage should the appeal be allowed. This would ensure that the scheme would be of a high design quality.
21. The conservation of heritage assets is inextricably linked to maintaining a viable use. I understand from the appellant that the property was marketed for sale for a period of 9 months between 2018/19 and that no realistic offers were received. The only market interest being for the redevelopment of the site.

22. In applying paragraph 197 of the Framework, a balanced judgment is required taking account of the significance of the non-designated heritage asset and the scale of any harm or loss, and such judgment should take account of the application as a whole, not just the scale of harm or loss.
23. Policy BE1 of the eVALP states that proposals which affect a non-designated heritage asset should be properly considered, weighing the direct and indirect impacts upon the asset and its setting. There is a presumption in favour of retaining heritage assets wherever practical, unless it can be demonstrated that the harm would be outweighed by the benefits.
24. In this case, for the appeal proposal to be implemented, it is clearly not possible to sustain the existing use or mitigate the harm. In taking account of the application as a whole, the proposal would provide an increase in 5 dwellings on the site. This would contribute to the supply of housing in the borough. I have found that the scheme would not cause harm to the existing settlement pattern. It would also, subject to the submission of acceptable details at reserved matters stage, cause no harm to the character and appearance of the area. Whilst the current appeal scheme is in outline, so that the matters of layout, scale and appearance are not before me, there is no evidence to suggest that the development would not make a positive contribution to local character and distinctiveness.
25. The building has an aesthetic value however this has been significantly diminished by the extensions and alterations that have taken place. Its setting has been degraded due to the new development surrounding it and HS2 to the south is likely to also have a further negative effect. Furthermore, no viable alternative use has been found for the building.
26. In making a balanced judgement and having regard to the significance of the building, I conclude that there is insufficient justification for its retention.
27. The appeal scheme would therefore comply with paragraph 197 of the Framework and Policy BE1 of the eVALP.

Local Infrastructure

28. The Council have stated that if they had approved the proposal, they would have required a financial contribution towards leisure and recreational facilities in line with AVDLP Policy GP88. The appellant has prepared a Unilateral Undertaking which makes provision for a contribution towards sport and recreation projects to meet community needs. I am satisfied that this would make the development policy compliant in this regard.
29. The Council have also advised that if they had granted planning permission, they would have required a legal agreement to secure the provision of 2 units as affordable homes. Policy GP2 of the AVDLP requires the provision of a minimum of 20% and up to 30% affordable dwellings on sites of 25 units or more. Taken in isolation the proposed 6 dwellings, a net increase of 5 units, would not be subject to this policy requirement.
30. The Council have argued that in their view, the scheme should be considered as part of the wider development and therefore should contribute towards affordable housing. Bearing in mind the relationship of the two sites and that the appeal site was excluded from the larger development due to the presence of the non-designated heritage asset, I agree that it should be considered as

an extension of the wider site. I am advised by the appellant that the neighbouring development has made an over provision of affordable housing and therefore only 1 additional unit would be required from the appeal scheme. The Unilateral Undertaking referred to above, makes provision for a 2-bedroom shared ownership affordable dwelling on the adjacent Whitethorn Gardens development. I consider it appropriate to make this off-site provision so that taken together, the affordable dwellings can be more appropriately managed. I am therefore satisfied that the appeal scheme makes a suitable contribution to affordable housing in line with the requirements of the development plan.

31. The above obligations are necessary to make the development acceptable in planning terms, are directly related to the development and fairly and reasonably related in scale and kind. Therefore, they meet the tests within Regulation 122 of the CIL Regulations and paragraph 56 of the Framework. I have taken these obligations into account in my decision.

Planning Balance

32. The Council accepts that policies most important for the determining the application, namely Policies RA13 and RA14 which relate to the supply of housing, are out of date. These policies identify housing targets to 2011 and the needs of the District have now changed significantly. In accordance with paragraph 11 of the Framework, 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.
33. The site forms a suitable location for residential development and is in an accessible location to the south of Stoke Mandeville. Whilst the Council have stated that they can currently demonstrate a 5-year supply of housing land, the net increase in 5 dwellings on the appeal site would contribute to the supply of housing in the area. The provision of an affordable housing unit, albeit of limited scale, would also contribute to the housing needs of the borough.
34. The proposal would bring social and economic benefits as new residents make use of local services and facilities. In terms of environmental benefits, the scheme has the potential to provide a net gain in biodiversity and make effective use of land. I have found that the scheme would cause no harm to the character and appearance of the area.
35. Against these positive aspects of the proposal is the loss of a non-designated heritage asset. Taking a balanced judgment, I have concluded that there is insufficient justification for its retention.
36. Accordingly, the adverse impacts of the scheme do not significantly or demonstrably outweigh the benefits when considered against the policies of the Framework taken as whole. The scheme forms sustainable development. As there are no material considerations which indicate the development should be determined other than in accordance with the development plan, planning permission should therefore be granted.

Conditions

37. The Council have suggested several planning conditions should the appeal be allowed. I have had regard to these in light of the Framework and Planning

Practice Guidance. I have made amendments to the wording where necessary in the interests of clarity and enforcement.

38. In the interest of good planning, it is necessary to impose conditions setting out time limits for development and the submission of reserved matters (Conditions 1-3). The Council has suggested a time limit of 18 months for the submission of reserved matters and the commencement of development after the approval of the last reserved matter. However, I have been provided with no justification for this and therefore I have imposed the usual default time periods of 3 and 2 years respectively.
39. In order to ensure that appropriate details of hard and soft landscaping, means of enclosure, slab levels and ecological mitigation are submitted pursuant to condition 1, conditions 4,5, 6 and 7 are required. These ensure that the character and appearance of the area is protected, a satisfactory form of development is implemented, and biodiversity matters are protected.
40. Condition 8 is necessary in order to record and safeguard any archaeological remains on the site. In the interest of highway safety, conditions 9 and 10 are required to ensure that appropriate visibility splays are provided to the site access and the works are completed before the first occupation of the development.
41. In order to ensure that the site is properly drained, Condition 11 is required to ensure the submission of a surface water drainage scheme based on sustainable principles. Condition 12 is necessary to require the submission of a whole life maintenance plan to ensure the long-term maintenance of the drainage system be put in place.
42. In the interests of protecting the living conditions of future occupiers, condition 13 is necessary to require the submission of noise mitigation measures.
43. I have not imposed conditions relating to materials, tree and shrub maintenance and tree protection as the appeal scheme is in outline and these matters are reserved for later approval.

Conclusion

44. For the reasons given above, and having had regard to all other matters raised, I allow this appeal.

Helen Hockenfull

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The details submitted pursuant to Condition 1 above, shall include a scheme of hard and soft landscaping which provides for the retention of existing trees and hedgerows. For hard landscape works, these details shall include; proposed finished levels or contours; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; where relevant. and other minor structures to be installed thereon. For soft landscape works,; contours for all landscaping areas, together with planting plans and schedules of trees and plants, noting species, sizes and numbers/densities, details of all trees, bushes and hedges which are to be retained and a written specification for the landscape works (including a programme for implementation, cultivation and other operations associated with plant and grass establishment). These works shall be carried out as approved prior to the first occupation of the development so far as hard landscaping is concerned and for soft landscaping, within the first planting season following the first occupation of the development or the completion of the development whichever is the sooner.
- 5) The details submitted pursuant to Condition 1 above shall include a scheme indicating all the proposed means of enclosure, whether by means of walls, fences or hedges, within and around the development, for the approval in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.
- 6) The details to be submitted for approval in writing by the Local Planning Authority in accordance with Condition (1) above shall include details of the proposed slab levels of the buildings in relation to the existing and proposed levels of the site and the surrounding land, with reference to fixed datum point. The buildings shall be constructed with slabs at levels that have been approved in writing by the Local Planning Authority.
- 7) The details to be submitted for approval in writing by the Local Planning Authority in accordance with Condition (1) above shall include an Ecological Mitigation and Enhancement Plan detailing how the development will result in a minimum 10% net ecological gain. This will need to include, but not limited to, those measures listed in the ecology report. The condition will be considered discharged following a written statement from the ecologist acting for the developer testifying to the plan having been implemented correctly.

- 8) Prior to the submission of the reserved matters, no development shall take place until a programme of archaeological work and archaeological building recording in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with the approved scheme.

Where significant archaeological remains are confirmed, no development shall take place until the applicant, or their agents or successors in title, have provided an appropriate methodology for their preservation in situ which has been submitted by the applicant and approved by the planning authority.

Where archaeological remains are recorded by evaluation and are not of sufficient significance to warrant preservation in situ but are worthy of recording no development shall take place until the applicant, or their agents or successors in title, have secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the planning authority.

- 9) Prior to the occupation of the development, minimum vehicular visibility splays of 43m from 2.4m back from the edge of the carriageway from both sides of the existing access onto Risborough Road shall be provided in accordance with the approved plans and the visibility splays shall be kept clear from any obstruction between 0.6m and 2.0m above ground level.
- 10) No other part of the development shall be occupied until the access has been built in accordance with the approved drawing and constructed in accordance with Buckinghamshire County Council's guide note 'Private Vehicular Access Within Highway Limits' 2013.
- 11) No works (other than demolition) shall begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall also include:
- Assessment of SuDS components as listed in the CIRIA SuDS Manual (C753) and provide justification for exclusion if necessary
 - Demonstrate that water quality, ecological and amenity benefits have been considered
 - Discharge rates limited to no greater than those outlined within the Drainage Statement prepared by the Glanville Group (Issue 3 dated 31 January 2019)
 - Ground investigations including:
 - i. Infiltration in accordance with BRE 365
 - ii. Groundwater level monitoring over the winter period (November – March)

- Subject to infiltration being unviable, the applicant shall demonstrate that an alternative means of surface water disposal is practicable in line with the hierarchy of drainage set out in National Planning Practice Guidance.
 - Full construction details of all SuDS and drainage components
Detailed drainage layout with pipe numbers, gradients and pipe sizes complete, together with storage volumes of all SuDS components
 - Calculations to demonstrate that the proposed drainage system can contain up to the 1 in 30 storm event without flooding. Any onsite flooding between the 1 in 30 and the 1 in 100 plus climate change storm event should be safely contained on site.
 - Details of proposed overland flood flow routes in the event of system exceedance or failure, with demonstration that such flows can be appropriately managed on site without increasing flood risk to occupants, or to adjacent or downstream sites. The details shall include:
 - i. Flow depth
 - ii. Flow volume
 - iii. Flow velocity
 - iv. Flow direction.
- 12) Prior to the occupation of the development a whole-life maintenance plan for the site must be submitted to and approved in writing by the Local Planning Authority. The plan shall set out how and when to maintain the full drainage system (e.g. a maintenance schedule for each drainage/SuDS component), with details of who is to be responsible for carrying out the maintenance. The plan shall also include as as-built drawings and/or photographic evidence of the drainage scheme carried out by a suitably qualified person. The plan shall subsequently be implemented in accordance with the approved details.
- 13) Any future detailed application for this development will include full details of the noise mitigation measures to be installed to protect external amenity spaces and internal habitable rooms in the proposed dwellings. If at the time of application no further information is available regarding noise sources from the Risborough Road and the HS2 rail line and there have been no changes to the proposed layout of the site or assumed construction methodology, the details of mitigation required can refer to the details contained in the Cass Allen report RP01-19096.