



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/20/3248981

Land to the rear of 19-21 Lower Road, Stoke Mandeville HP22 5XA

- 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 A Pearce against Aylesbury Vale District Council.
 - The application Ref 19/03898/APP is dated 25 October 2019.
 - The development proposed is the erection of 2no. dwellings (C3) and children's nursery (D1), including the provision of new access, landscaping, parking and other ancillary works.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. 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.
3. 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 the proposal would not represent infilling of a small gap in a developed frontage and would form backland development. Furthermore, it would cause significant intrusive harm to the character and appearance and landscape quality of the countryside. If the application had been approved, the Council would have asked the appellant to enter into a section 106 agreement to secure a travel plan in the interests of encouraging sustainable travel. As the planning application was not determined, such an agreement was not signed and therefore the scheme is deficient in this regard. I have used these reasons to frame the Main Issues outlined below.

4. 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. The Council has referred to eVALP Policies S2, S7, D3, BE2, NE4, NE7, T4 and T5 and has advised that the examining Inspector has requested main modifications be made to all of these policies with the exception of Policy S7 and Policy T4. The latter policy is a new untested policy introduced by main modification. 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 stage at which the Plan has reached and in light of paragraph 48 of the National Planning Policy Framework (the Framework), I give these policies moderate weight in my decision.

Main Issues

5. The main issues in this case are:
- whether the appeal site forms a suitable location for development having regard to national and local planning policies;
 - the effect of the development on the character, appearance and landscape quality of the countryside;
 - whether the proposal contributes to the encouragement of sustainable travel.

Reasons

Suitable location

6. The appeal site comprises just over 0.8 hectares of land located to the rear of 19 and 21 Lower Road on the western edge of Stoke Mandeville. It forms an open field bounded by residential gardens to the north and north east and existing hedgerows to all other boundaries with open countryside beyond. Whilst it was evident from my site visit, that the site lies outside the built-up area of the village, it lies in an accessible location close to facilities, schools and public transport including the railway station.
7. Policy S2 of the eVALP sets out the spatial strategy for Aylesbury Vale. It indicates that Stoke Mandeville is a larger village where housing development is restricted to the limited infilling of small gaps in developed frontages or consolidating existing settlement patterns in line with Policy D3.
8. The appeal site does not form an infill plot, a small gap in an otherwise developed frontage. It forms a backland plot extending into the open countryside and does not consolidate the existing settlement pattern. Accordingly, the proposal would conflict with Policies S2 and D3 of the eVALP.
9. The appellant has argued that in line with Saved Policies GP.93 and GP.94 of the adopted Aylesbury Vale District Local Plan (AVDLP) 2004 and Policy I3 of the eVALP, nursery facilities are recognised as being acceptable uses beyond main settlements and away from centres. I accept that such facilities contribute to the social and economic life of a community, particularly in rural areas and this weighs in favour of the scheme. However, the location of such uses must be assessed against other relevant development plan policies including the spatial strategy.

Character, appearance and landscape quality

10. As I have outlined above, the appeal site lies outside the built-up area of Stoke Mandeville. It comprises an agricultural field, bounded by hedgerows and the garden boundaries of existing residential properties. It is crossed by a public right of way and has a distinctly rural character.
11. The predominant pattern of development in the locality consists of generally linear development alongside the road. Properties are accessed directly from the road and are sited in relatively large plots with attractive front and rear gardens. The exception to this is the outbuildings associated with the former stables at Swindon House to the north of the appeal site.
12. The proposed development would be accessed from a new access between No's 21 and 21a Lower Road and would in effect form back land development extending built form into the open countryside. This would not be in keeping with the existing pattern of linear development along Lower Road.
13. The scheme proposes two dwellings and a nursery building with associated parking. The nursery building would be approximately 46 metres from the back of No.21a Lower Road, and the nearest dwelling would be around 31 metres from the rear of No.19. Built development would therefore extend a significant way into the site. This intrusion into the open countryside would have a significant negative impact on the character and appearance of the area.
14. The appellant has brought my attention to a site to the north, Swindon House which has the benefit of planning permission for a single dwelling and is the subject of an appeal for a proposal for two dwellings. This site would provide development to the rear of existing buildings. It is argued that as this would form another backland development in the locality, the appeal proposal would not be out of character. I have not been provided with the full details of this case in order to make a comparison with the appeal before me. In any event each case should be considered on its individual merits.
15. The site is located within the Southern Vale Landscape Character Area. Its underlying character is of arable land and hedgerows with hedgerow trees. I have had regard to the appellant's Landscape Visual Impact assessment. Whilst the general Southern Vale landscape contains some detracting features and the Character Appraisal suggests that much of the landscape is in poor condition, there are localised pockets of higher quality landscape management. I consider that the appeal site falls into this category. It does not in my view exhibit detracting features and is in moderate condition.
16. The hedgerows to the northern and southern boundaries which also contain a number of mature trees would be retained and could be further enhanced. Whilst this existing vegetation would screen the site in the summer months, in the winter it would be likely that filtered views of the development would be achievable. The site's western boundary is currently undefined. Proposed native hedging and tree planting would assist to provide screening to the development and provide a softer urban edge. Viewed from Marsh Lane to the south and the public footpath to the north west, due to the intervening vegetation and flat topography, the site would not appear prominent in the landscape.

17. At the more local level however, views of the appeal site would be available from the rear windows of existing residential properties on Lower Road and also from public rights of way particularly from the footpath that currently crosses the site and the footpath which follows the application boundary to the west. These views would in the main be localised. Users of the footpaths which form receptors of a high sensitivity, would experience a significant change and a more urban environment. Whilst the footpath crossing the site would be retained, albeit diverted, the development would diminish the recreational value and amenity of the local landscape. However, as this would be for the extent of the development site only, I consider this harm would be limited.
18. The appellant argues that the built part of the development would be located to the north east of the site where it would be seen against the backdrop of existing residential properties. This part of the site therefore has a reduced rural character. I do not agree. My observations are that apart from the boundary retained to the rear of 19-21 Lower Road, the site has no visible urban influences and therefore has a typical countryside character.
19. The Council has suggested that potential views of the site may become available on the arrival of HS2 to the south of the site. I understand that Marsh Lane may be raised on embankment to cross the railway. This would result in motorists being able to view the development. Without further details of this proposal, I am unable to come to an informed view on this matter.
20. The proposed access to the site would necessitate the removal of a length of hedgerow, two trees and a small group of willow and hazel. Lower Road has a verdant appearance with mature trees, hedgerows and front garden areas. I am satisfied however that replacement landscaping would appropriately mitigate their loss and maintain the visual amenity of the street scene.
21. Bringing the above points together, whilst the appeal scheme would cause limited adverse impact to the wider landscape, it would inevitably cause significant localised harm. The proposed landscaping and retention of existing hedgerow and trees would assist to screen the development and mitigate this harm but would be less effective in the winter months and insufficient to overcome the harm to the local landscape.
22. The proposal would extend built form into the open countryside. This intrusion would have a significant adverse impact on the character and appearance of the area and fail to recognise the intrinsic character and beauty of the countryside as required by paragraph 170 of the Framework. The scheme would form backland development, out of keeping with the established pattern of built form in the locality. Overall, the proposal would cause significant harm to the character and appearance of the area.
23. Accordingly, the scheme would be contrary to Saved Policy GP35 of the adopted AVDL and emerging Policies S7, BE2 and NE4 of the eVALP. These policies 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. It would also not accord with paragraph 127 of the Framework which seeks to achieve well designed places, ensure developments function well adding to the overall quality of the area, and being sympathetic to local character and history, including the surrounding built environment and landscape setting.

Sustainable travel

24. The Council have stated that if they were able to determine the application, they would have required the appellant to enter into a legal agreement to secure a financial contribution towards the monitoring of a travel plan. As part of the appeal submission, the appellant has provided a signed and dated Unilateral Undertaking which makes such provision. I am satisfied that this appropriately addresses this matter. The proposal would therefore meet the requirements of Policy RA36 of the AVDLP, Policies T4 and T5 of the eVALP and the objectives of the Framework to ensure sustainable travel.
25. I am satisfied that the submitted Undertaking would meet the tests of Regulation 122 of the Community Infrastructure Regulations and the Framework, the requirement being directly, fairly and reasonably related in scale and kind to the development. I therefore take it into account in my decision.

Planning Balance

26. It is clear from the submitted evidence, that whilst not relied on in the Council's case, Policies RA13 and RA14 of the AVDLP, which relate to small scale development in settlements outside the Green Belt, are inconsistent with the Framework. They form part of the overall housing strategy to 2011 and are now out of date. As they are policies relating to the spatial framework, they are most important for determining the development. Therefore, 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.
27. As I have outlined above, the appeal site does not represent an infill plot. Rather it forms a backland site extending into the open countryside and fails to consolidate the existing settlement pattern. It would also have a significant adverse effect on the character, appearance and landscape quality of the area.
28. Weighed against these adverse impacts, are the benefits of the proposal. There is a high demand for nursery places in the locality and the scheme would contribute to this provision. New development proposed in the locality would increase this demand. The nursery would bring economic benefits in terms of direct employment, it would assist working parents and during its construction would bring short term construction jobs.
29. The appellant has brought my attention to paragraph 94 of the Framework which states that great weight should be given to the need to create schools. However, the nursery use proposed is not a school, it is a childcare facility though I accept it would have an educational role. In this regard, the Framework does not add support to the proposal.
30. The Council have provided evidence that they can currently demonstrate a 5-year housing land supply calculated using the standard methodology. The proposed 2 new dwellings would contribute to the supply of housing but having regard to the scale of the development this contribution would be limited. The site lies in a sustainable location and future occupants of the dwellings would bring social benefits, contributing to village life and supporting local services and facilities.

31. In conclusion, the adverse environmental impacts I have identified, would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole. The proposal therefore does not form sustainable development as defined in the Framework. It would conflict with Saved Policy GP.35 of the AVDLP, which is consistent with the Framework, and Policies S2, S7, BE2, D3 and NE4 of the eVALP. Whilst I give moderate weight to the conflict with these emerging policies, there are no material considerations in this case that indicate that the proposal should be determined otherwise than in accordance with the development plan.

Conclusion

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

Helen Hockenhull

INSPECTOR