The Planning Inspectorate

Appeal Decision

Site visit made on 12 October 2020

by David Carter BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st December 2020

Appeal Ref: APP/J0405/W/20/3253420
Land adj 89 High Road, Soulbury, Leighton Buzzard LU7 0BT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Steven Stanley against the decision of Aylesbury Vale District Council.
- The application Ref 20/00623/APP, dated 19 February 2020, was refused by notice dated 13 May 2020.
- The development proposed is alterations and improvements to an existing vehicular and pedestrian entrance driveway so as to comply with current highway regulations and the construction of a pair of three bedroom semi-detached cottages (fenestration and materials matched to Nos 85-89 High Road) on an unkempt plot of land which was formerly the garden to No 89 High Road.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The date of the planning application above is as indicated on the appeal form as the section on the application form itself has been redacted.

3. The description of development has been shortened to, "erection of 2 dwellings and alterations and improvements to existing vehicular and pedestrian access" on the decision notice and adopted by the appellant on the appeal form. I have determined the application on this basis.

4. A significant proportion of the appellants evidence concerns a new housing development of 10 dwellings on the western side of High Road which, at the date of my site visit was under construction. This development was allowed on appeal (APP/J0405/W/18/3203262). While I accept there is some common ground in the background to both that proposal and the current appeal, it appears to me that the differences in circumstances are significant. I have therefore determined this appeal on its merits.

5. The Aylesbury Vale District Local Plan was adopted in 2004 (AVDLP). The review of the local plan, the Vale of Aylesbury Local Plan (VALP) is at an advanced stage. The public hearings of the Examination were held in July 2018 and, I understand that the Main Modifications have yet to be finalised. Until the new plan is adopted the policies set out in the VALP carry limited weight.

6. Following a reorganisation Aylesbury Vale District Council have merged, with others, to form the new Buckinghamshire Council. Accordingly, all references to

the local planning authority in this decision refer to Buckinghamshire Council after 1 April 2020.

Main Issues

7. The main issues are:

(i) the effects of the appeal proposal on the character and appearance of the area having regard to whether or not it is a suitable location for the proposed development and,
(ii) the effects of the appeal proposal on protected trees and ecology and,
(iii) the implications of the appeal proposal for flood risk and,
(iv) the heritage implications for Soulbury Conservation Area and to the adjacent non designated heritage assets.

Reasons

Character and appearance

8. The appeal site is located at the edge of the village of Soulbury in the floor of a valley with a stream marking its southern boundary. A belt of mature woodland and vegetation characterise the land adjacent to the stream on both sides of High Road in the vicinity of the appeal site.

9. The pair of semi-detached dwellings would be set back from the building line of the adjacent terraced properties in order to avoid the stream. This would have the advantage in helping protect some of the existing vegetation on the High Road frontage. The appellants design for the proposed dwellings with materials to match the adjacent terrace has been criticised by the Council as bulky and unattractive but, to me, that assessment seems a little harsh.

10. Of greater concern would be the introduction of built development into an undeveloped area, previously used as a garden or allotment that appears integral to the belt of vegetation along the valley floor. While it is likely that the vegetation along High Road and to the south of the site would help soften the visual impact, the insertion of the 2 dwellings would have an urbanising effect and appear out-of-place harming the rural landscape character forming the setting of Soulbury when approaching from the south. A key difference between the appeal proposal and the new dwellings opposite allowed on appeal, is that the new dwellings in that case steered well clear of both the belt of vegetation and the valley floor.

11. In the VALP, Soulbury is identified as a smaller village within the settlement hierarchy whereas previously (in the AVDLP), it had been considered as a larger village. Notwithstanding this, it is envisaged in both the extant and emerging local plans that development would be restricted to sites within or, where the site would be substantially enclosed by the existing built form. This means that the appeal site would be regarded as forming part of the open countryside and would not be regarded as a type of development permissible within the countryside. The suggestion that the watercourse forms the effective boundary of the village is not compelling.

12. Accordingly, I conclude that the appeal proposal would be harmful to the rural character and appearance of the area given its sensitive edge of settlement location at an important green gateway on the approach to Soulbury from the south. As such, the appeal proposal is contrary to AVDLP Policies GP35 and

RA13 and the emerging VALP Policies BE2, D4, S7 and NE4. Policy GP35 which is essentially carried forward into BE2 concerns the design of new development including respect for natural qualities and public views. Policy RA13 identifies the approach to development in villages and Policy D4 carries forward the approach to housing development in smaller villages. Policy S7 seeks to steer development onto brownfield sites and Policy NE4 establishes the importance of landscape character and locally important landscape.

Trees and ecology

13. The appellants evidence includes a Tree Survey Report prepared by RGS Arboricultural Consultants and Preliminary Ecological Appraisal prepared by Bernwood ECS Ltd (both reports dated April 2020).

14. The appeal site is located in the green landscape corridor associated with the watercourse. The stream marks the southern boundary of the site. There are 2 trees with Tree Preservation Orders (TPO) and a significant amount of additional mature vegetation on the site or close to its boundaries. The design of the scheme allows for retention of the protected trees and mitigation/provision for losses of more valuable assets including new planting of suitable replacement hedgerows, the provision of bat boxes and a 3m buffer from any built development to the edge of the watercourse. The Council have expressed concern over the confidence that might be attached to the appellants evidence on the likely efficacy of the tree protection measures proposed. The root protection areas of the protected trees would appear to be affected and the new construction would require crown lifting. These are matters that must be of concern and to which some weight must be attached. However, I feel the crux of the matter, concentrates on the likely effects on the green landscape corridor associated with the watercourse.

15. Paragraph 7.11 of the Bernwood report states that, "The site is situated adjacent to linear landscape features including a stream and areas of woodland…". While this comment is within the section examining the potential impact on bats arising from the development, it appears to illustrate how the appeal site is being viewed as separate and distinct from the landscape feature. However, it appears to me that the site is integral to that feature and, the manner in which the stream wraps around much of the site enhances its role within the corridor. The 3m buffer proposed falls a long way short of the 10m buffer required by the Environment Agency's policies and is reflected in the emerging local plan policy. If a 10m buffer were drawn on the proposed plans then, almost all of the footprint of the semi-detached dwellings would fall within that area.

16. The appellants seek to justify the appeal proposal by comparison with the site under construction opposite. However, this is not appropriate since, it is apparent that the development allowed on appeal is located clear of the landscape corridor feature.

17. Accordingly, I find that the appeal proposals would cause significant harm to the green landscape corridor within which the appeal site is located resulting in harmful impact to the existing tree cover and would fail to allow a sufficient corridor for the effective maintenance and enhancement of the ecological value of the landscape feature. As such the appeal proposal would conflict with AVDLP Policies GP38, GP39 and GP40 and Policies NE2 and NE8 of the emerging VALP. Policies GP38, GP39 and GP40 set out the approach to

landscaping and the protection of hedgerows and trees. Policy NE2 sets out the approach for development adjacent to rivers and watercourses including the requirement for an ecological buffer. Policy NE8 protects and resists the loss of trees and hedgerows. The approach in both the extant and emerging local plan is consistent with that in the Framework.

Flood risk

18. The appeal site falls within Flood Zone 1 where a site-specific flood risk assessment (FRA) would not usually be required. Notwithstanding this, the appellant prepared a FRA as part of the planning application in order to address objections from the Local Lead Flood Authority (LLFA). This report has failed to convince the LLFA which has maintained its objection. The increased incidence of flooding events requires this is an issue to be taken very seriously. The location of the proposed new dwellings within a valley floor so close to an existing watercourse where, the LLWA has indicated there are known flooding issues and, a water table 3m below the surface is inappropriate. It would place an unnecessary risk for the future occupants of the proposed dwellings and could have implications for flooding elsewhere.

19. Accordingly, I find that the appeal scheme is unsuitable for development as a consequence of flood risk. As such the appeal proposal conflicts with Policy I4 of the emerging VALP and the advice in the Framework. Policy I4 addresses flood risk management.

Heritage

20. The appeal site lies adjacent to the Soulbury Conservation Area as well as adjacent non-designated heritage assets. The Conservation Area is a designated heritage asset under the Planning (Listed Buildings and Conservation Areas) Act 1990. Section.72(1) requires that, in the exercise of planning powers in conservation areas, "special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area". Para 193 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be).

21. Soulbury was originally established as a rural farming community. More recently, it has been losing its dependence on the rural economy and become more of a commuter village serving the larger urban areas of Milton Keynes, Leighton Buzzard and Aylesbury. This has resulted in more modern housing development taking place. Notwithstanding this, much of the form and rural charm of the village has been retained. It is still, primarily, a ribbon settlement with small clusters of older buildings occupying prominent positions which are of historic interest, including the terrace of dwellings adjacent to the appeal site which is identified as a non-designated heritage asset.

22. I have already referred to the harmful impact of the appeal scheme on the character and appearance of the area and, in particular, on the green gateway when approaching Soulbury from the south. It follows that views into the Conservation Area, including the adjacent terrace of housing, from its setting would also be harmed by the construction of the 2 new dwellings. Thereby, the appeal proposal would lead to less than substantial harm to the significance of Soulbury Conservation Area, a designated heritage asset.

23. The public benefits of the appeal proposal would include the addition of 2 new dwellings to the housing stock and the economic benefits arising from their construction and spending/support by future occupants for local services and facilities. However, it appears to me that most of the benefits arising from the proposal would be private and would not be sufficient to outweigh the less than substantial harm.

24. I conclude the appeal proposal would fail to preserve the setting of the Soulbury Conservation Area, including the adjacent non designated asset, and would cause less than substantial harm to its significance as a designated asset. In the absence of public benefits to outweigh the harm to the Soulbury Conservation Area, it would be in conflict with AVDLP Policy GP53 and BE1 of the emerging VALP. These policies seek to protect and enhance the historic environment and heritage assets ensuring that development proposals outside conservation areas do not detrimentally impact upon the setting of the conservation area. These policies reflect the importance attached to conservation in paragraph 193 of the Framework.

Conclusion

25. For the reasons given above and, taking account of all the matters raised, I conclude the appeal should be dismissed.

David Carter

INSPECTOR