
Appeal Decision

Site visit made on 1 September 2020

by David Carter BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th December 2020

Appeal Ref: APP/J0405/W/20/3249040

3 Jericho Cottages, Oxford Road, Oakley HP18 9RG

- 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 Florent against Buckinghamshire Council.
 - The application Ref 18/03664/APP, is dated 8 October 2018.
 - The development proposed is conversion and extension of garage into a residential dwelling.
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Decision

1. The appeal is dismissed and planning permission for conversion and extension of garage into a residential dwelling is refused.

Preliminary Matters

2. The appeal is for non-determination and the Council have indicated that had it been in a position to do so, the planning application would have been refused for the following reason:

The application site is located within a rural location with poor access to services and facilities, being reliant on the use of the car, and is therefore considered to be locationally unsustainable. Furthermore, the development, including the scale of extension proposed, would constitute the addition of a dwelling outside the built up confines of Oakley which would intensify and consolidate the existing dispersed pattern of development, which would be detrimental to rural character and appearance of the area and which is not justified by any special circumstances as set out in paragraph 79 of the National Planning Policy Framework.

3. This appeal proposal is a resubmission of an earlier scheme (Ref 17/02837/APP) that was refused planning permission on grounds including that the proposal was an isolated dwelling. The appellant resubmitted the proposal in the context of the Braintree District Council v Secretary of State for Communities and Local Government [2017] EWHC 2743 (Admin) High Court Decision regarding the definition of an isolated dwelling.
4. The appellant's evidence refers to saved Policy GP6 of the Aylesbury Vale District Local Plan (2004) which deals with the sub-division and conversion of dwellings. Since this policy is not referred to in the Council's evidence, I gave both parties the opportunity to comment on the applicability of Policy GP6 in relation to this appeal.

5. The Aylesbury Vale District Local Plan (LP) was adopted in 2004. 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 public consultation on Further Main Modifications is scheduled between 15 December 2020 and 9 February 2021. Until the new plan is adopted the policies set out in the VALP carry limited weight.
6. Following a reorganisation Aylesbury Vale District Council has merged, with others, to form the new Buckinghamshire Council. Accordingly, all references to the local planning authority after 1 April 2020 in this decision refer to Buckinghamshire Council.

Main Issue

7. The main issue concerns the effect on the rural character and appearance of the area having regard to whether or not the appeal proposal lies within a suitable and sustainable location for the proposed development.

Reasons

8. No 3 Jericho Cottages forms part of a terrace of 3 cottages comprising a mix of 2 and single storey development. The appeal proposal would subdivide No 3 through the conversion and extension of 2 existing garages into a separate 2 bedroom, single storey dwelling. The appellant indicates the garages are used for storage rather than the garaging of vehicles. The terrace lies in a rural location some 490m from the built-up edge of the village of Oakley. Oakley is defined as a small village in the settlement hierarchy of the emerging VALP. Against this background the appeal proposal could not be considered an isolated dwelling. This means that paragraph 79 of the Government's National Planning Policy Framework does not apply to the appeal scheme.
9. Saved Policy GP6 of the LP still forms part of the development plan. The policy states that proposals for the subdivision or conversion of existing dwellings into two or more units of accommodation will be permitted, provided they make adequate provision in terms of access, parking, amenity space and noise attenuation and have regard to the amenity of adjoining or nearby properties and the effect on the character of the area and the balance of the community. The policy applies district-wide but, neither the policy nor supporting text make reference to the sub-division of dwellings being facilitated by extensions.
10. It appears to me that a key point would be whether the proposed sub-division of No 3 would be of sufficient size to form a new, separate dwelling without extension. On the basis of the submitted plans the internal floorspace within the converted garage/ storage space falls below the minimum requirement for a one person, one bedroom single storey dwelling and substantially below the minimum standard for a 3 bed space, 2 bedroom, single storey dwelling, as proposed, as set out in the Technical Housing Standards – Nationally Described Space Standard (2015).
11. While the proposed extension, would be of relatively modest proportions in comparison to the single storey element of the terrace, it would represent a substantial (c60%) extension of the 2 existing garages. In terms of visual impact, the 2 and single storey elements of the existing terrace are in roughly equal proportion. Although views of the terrace are restricted since, the new dwelling would be at the furthest part of the terrace from the road frontage, I

nevertheless consider that there would be a detrimental impact on character and appearance arising from the appeal proposal since the extension would lead to the linear, single storey element appearing disproportionate and thereby dominating the terrace.

12. The appellant asserts that the appeal proposal would be highly sustainable and that any residual adverse impacts would be limited. As a small village within the settlement hierarchy, as set out in the emerging VALP, Oakley has a very limited range of services (pub, school and village hall). Functionally, Jericho Cottages would be regarded as part of Oakley but clearly lying outside the built-up area of the village within open countryside. Local services, including bus services (infrequent services to Thame and Princes Risborough from a bus stop 800m from the appeal site) in nearby Oakley would be accessed via Oxford Road which is an unlit country road without a footpath. The appeal site would be within easy cycling distance of services and facilities in Oakley. Nevertheless, occupants of the appeal proposal would most likely rely on private motor vehicles to gain access to services in Oakley and beyond and, this is recognised by the appellant. The implication is that the proposed development would be a relatively inaccessible location.
13. The benefits arising from construction would be short-term and additional spending and support for local services would necessarily be limited from a single dwelling. The environmental benefits highlighted by the appellant would have a neutral effect as they propose retention of existing trees and hedgerows, where possible. The addition of a new dwelling to the stock would be beneficial although, the emerging VALP seeks to meet housing need by steering new development into more accessible locations thus avoiding sporadic development in the countryside.
14. The appellant has referred to permitted development rights and how these would enable development of a similar scale to that proposed. The Council have queried this because the height of the proposed development would be outside the prescribed limits for a side extension and require planning permission. However, it also appears to me that the suggestion is not appropriate in these circumstances as there is not a viable existing dwelling to which these rights could be applied, as per the description of the development.
15. The appellant has also referred to another appeal decision (APP/J0405/W/16/3151750) in support of the appeal proposal. While I do not have the details of that proposal it appears to me that the circumstances were somewhat different. In comparison to the current appeal the proposal in that case was for a new dwelling amongst a cluster of 11 buildings, enclosed by dwellings on 3 sides and falling a significantly shorter distance to the settlement of Aston Abbots. Another difference is that the emerging VALP is at an advanced stage.
16. Accordingly, I find that the appeal proposal would lead to the addition of a new dwelling within an open countryside location, outside of the settlement hierarchy, contributing to a more dispersed pattern of development contrary to the rural character and appearance of the area. While I acknowledge the scheme would have benefits, I do not agree it could be regarded as highly sustainable. This is because the location of the appeal site is relatively inaccessible by means other than the private car. Therefore, the proposed development could not, overall, be regarded as a sustainable development. The

ability to provide the new dwelling wholly depends on the construction of the extension. It appears to me this goes beyond the scope and intent of saved Policy GP6. Furthermore, while the scale of new built development would be modest, its effect on the character and appearance of the terrace would be more significant leading to an imbalance of the 2 storey and single storey elements. I therefore conclude that the totality of the harm would outweigh the benefits.

17. As such the appeal scheme would conflict with AVDLP saved Policies GP6, GP35 and RA11, and Policies S1, BE2 and C1 of the emerging VALP. Saved Policy GP6 enables subdivision of existing dwellings, saved Policy GP35 and emerging Policy BE2 seek high quality design as part of new development. Saved Policy RA11 and emerging Policy C1 set out the approach to the conversion of rural buildings. Emerging Policy S1 sets out the presumption in favour of sustainable development. In relation to paragraph 11d) of the Framework, the harmful effects of the proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

Other Matters

18. A Car Parking Statement was produced by Fisher German LLP as part of the application process and, I understand that the proposed arrangements for access and parking would be acceptable to the Council, subject to conditions. I have no reason to disagree on this point. I am also satisfied that the appeal proposal would not adversely affect the living conditions of the occupants of neighbouring properties. However, these considerations would not out-weigh the harm from the appeal proposal that I have identified above.

Conclusion

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

David Carter

INSPECTOR