
Appeal Decision

Site visit made on 2 February 2021

by Guy Davies BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 February 2021

Appeal Ref: APP/J0405/W/20/3262376
58 Bishopstone, Bishopstone HP17 8SH

- 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 Yeoman Homes Ltd against the decision of Buckinghamshire Council – Aylesbury Area.
 - The application 20/02633/APP, dated 4 August 2020, was refused by notice dated 30 September 2020.
 - The development proposed is demolition of existing detached house and construction of three detached houses.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The draft Vale of Aylesbury Local Plan is in the process of being examined, with further main modifications currently being considered. As it has reached an advanced stage towards adoption, in accordance with the advice in paragraph 48 of the National Planning Policy Framework (the 'Framework') I have given it limited weight.

Main Issues

3. The main issues are:
 - The effect of the development on the character and appearance of the area, including landscape and trees
 - Whether the development would preserve or enhance the character or appearance of the Bishopstone Conservation Area and the setting of nearby listed buildings
 - The living conditions of neighbouring occupants at 56, 56a and 58b Bishopstone, with regards to noise and overshadowing.

Reasons

Character and appearance

4. Bishopstone is a small village with buildings generally strung out in a linear form along the road, allowing glimpsed views of open countryside beyond. There is a mix of building styles and designs, with traditional buildings to the east of the site and also further west around the junction with Moreton Lane,

interspersed with more modern infill. A small housing estate has recently been built to the rear of The Harrow Public House. The character of the village is very much dominated by its rural setting. Individual plots, including the appeal site, contribute towards this rural setting by having gardens that provide space for hedges and other foliage along the road frontage, and provide a transition to the countryside at the rear.

5. The appeal proposal would introduce development in a tandem form of layout that would be out of character with the linear form of the village. Immediately alongside the site at 56 and 56a Bishopstone there is also a tandem form of development but this is an isolated example where the original dwelling was set back from the road frontage, and the front later infilled with another dwelling. It is also relevant that 56 Bishopstone is a low pitched bungalow, having a modest visual impact when viewed from the road and allowing views of field trees beyond.
6. The proposed dwellings at the rear would span almost the whole width of the site, with limited gaps between the buildings and between the buildings and their side boundaries. Although the front dwelling would be in general alignment with neighbouring buildings which front the road, it would have a considerably smaller garden. These aspects of the scheme would result in a cramped form of development giving an overdeveloped, urban appearance that would be at odds with the rural setting of the village.
7. The proximity of the rear, eastern dwelling to the side boundary would require the removal of trees and shrubbery along that boundary. The front dwelling and access drive would also require the removal of trees and other foliage, including the beech hedge along the road frontage. I acknowledge that the trees on the site are individually of modest merit¹, but collectively their loss and the more limited opportunities for new planting, particularly towards the front of the site as a result of the new buildings and hard surfacing, would erode the verdant appearance of this part of the village.
8. I conclude that the proposed development would harm the character and appearance of the village because of its cramped, overdeveloped nature which would be at odds with its rural setting. As a result, it would conflict with Policies GP35, GP38, GP39 and GP40 of the Aylesbury Vale District Local Plan 2004, which require new development to respect and complement its surroundings, including appropriate landscaping and trees. It would also conflict with the Council's New Houses in Towns and Villages Design Guide in so far as it relates to the elements identified above.
9. Policy RA13 of the Aylesbury Vale District Local Plan 2004 supports small-scale development in designated villages, including Bishopstone, but only does so where, amongst other criteria, development would not harm important settlement characteristics. For the reasons set out above, I conclude that it would harm the rural, linear character of the village, and the appeal scheme would therefore conflict with Policy RA13. I note that both the appellant and Council consider that very limited weight should be given to this policy because it relates to the housing strategy in the adopted Plan, which is now out of date. I therefore place only limited weight on the conflict with this policy.

¹ GHA Trees Arboricultural Consultancy, arboricultural and planning integration report and arboricultural impact assessment, 2020.

10. The proposed development would also conflict with Policies BE2, D4, S7, NE4 and NE8 of the emerging Vale of Aylesbury Local Plan. These policies cover similar issues to the adopted policies noted above and the proposed development conflicts with them for similar reasons. However, I give them only limited weight because the emerging Plan has yet to be adopted.

Conservation area and listed buildings

11. The Bishopstone Conservation Area comprises two parts, the eastern section of which includes Grade II listed buildings at Pear Tree Cottage and Laburnham Cottage. The significance of this part of the Conservation Area and listed buildings is as part of the historic growth of buildings around farmsteads that more recently have coalesced to form the elongated settlement pattern of Bishopstone. The appeal site lies outside the Conservation Area but is visible from land within it as well as the curtilages of the listed buildings, in particular Pear Tree Cottage.
12. For the reasons given earlier, the layout of the proposed development would fail to respect the historic linear form of the village and, because of its cramped and overdeveloped nature, would harm the setting of the Conservation Area and to a lesser extent the settings of the listed buildings. The removal of foliage along the front and eastern side boundaries would make the development more visible from the Conservation Area and the curtilages of the listed buildings, which would further exacerbate the harmful impact. I agree with the view of the appellant's heritage consultant² that the removal of the existing building on the site would not cause harm, but I consider that its replacement with the proposed development would fail to preserve or enhance the settings of the heritage assets.
13. Using the terminology in paragraph 196 of the Framework, the proposed development would cause less than substantial harm to the settings of the Conservation Area and listed buildings. Nevertheless, I attach great weight to that harm in accordance with paragraph 193 of the Framework. The modest public benefits of the scheme, including the provision of additional housing and the temporary benefits arising from construction employment, are not sufficient to outweigh the harm to the heritage assets.
14. I conclude that the proposed development would fail to preserve or enhance the setting of the Bishopstone Conservation Area or the settings of the Grade II listed buildings at Laburnham Cottage and Pear Tree Cottage. It would as a result conflict with Policy GP53 of the Aylesbury Vale District Local Plan 2004, which seeks to preserve or enhance the special characteristics that led to the designation of the Conservation Area. I also give limited weight to the conflict with Policy BE1 of the emerging Vale of Aylesbury Local Plan, which has a similar objective.
15. For similar reasons, the proposed development would conflict with the statutory duty³ to preserve listed buildings and their settings, and preserve or enhance the character or appearance of conservation areas.

² The Heritage Advisory, heritage statement, 2020.

³ Planning (Listed Buildings and Conservation Areas) Act 1990, Sections 66 and 72.

Living conditions

16. There is a solid timber boundary fence between the appeal site and 56 and 56a Bishopstone. The neighbouring dwellings are set off from the boundary by their own driveways. The proposed development would introduce a similar length driveway alongside the fence with two parking areas, one at the front and one at the rear. While an increase from 1 to 3 dwellings on the site would give rise to an increase in vehicle movements, given the boundary fence and the comparable driveway on the other side of the fence, I consider that these movements would not be so great or in such proximity to the neighbouring dwellings as to cause undue noise or disturbance to the living conditions of their occupants. The proposed driveway and parking areas are sufficiently far enough away from 58a Bishopstone so as not to cause harm. I note the views of the Inspector in a previous appeal on the same site⁴, but this earlier scheme was for 5 rather than 3 dwellings and was therefore materially different in terms of the amount of vehicle movements it would have generated.
17. The proposed front dwelling would be positioned approximately level with the neighbouring dwelling at 58a Bishopstone. This neighbouring dwelling has two ground floor, side facing windows including a large window to a habitable room that currently look out across the front garden of the appeal site. The proposed dwelling would severely overshadow these windows and appear oppressive to their occupants. Although these windows could be screened by a boundary fence, the size and proximity of the proposed dwelling would cause a significantly greater loss of light and outlook such that it would be harmful to the living conditions of occupants at 58a Bishopstone.
18. The rear two dwellings would be sited in alignment with the rear portion of the bungalow at 56 Bishopstone. The closest element of the bungalow presents a blank side elevation to the appeal site, and while there are side facing habitable room windows in the forward part of the bungalow, these would not be impacted directly by the proposed dwellings, which would be sited further back. This positioning is materially different to that proposed in the earlier appeal scheme. Having regard to the relationship between existing and proposed dwellings, I consider that the living conditions of the occupants of 56 Bishopstone would not be unacceptably harmed through overshadowing or sense of enclosure.
19. I conclude that, although increased vehicle movements would not be so great as to give rise to an unacceptable level of noise or disturbance to neighbouring occupants, nor would the rear dwellings impact unacceptably on the adjoining bungalow at 56 Bishopstone, the front dwelling would have an overbearing impact and cause an unacceptable loss of light to side facing windows to 58a Bishopstone. As a result, the development would harm the living conditions of the occupants of this neighbouring dwelling and thereby conflict with Policy GP8 of the Aylesbury Vale District Local Plan 2004, which prevents harm to the amenity of nearby residents. I also give limited weight to the conflict with Policy BE3 of the emerging Vale of Aylesbury Local Plan, which also seeks to protect the amenity of residents.

⁴ APP/J0405/W/18/3216281

Other Matters

20. I note the appellant's dissatisfaction with the lack of pre-application discussion. However, that is a matter between the appellant and Council, and is not material to this appeal.
21. An ecological impact assessment⁵ identified the existing dwelling as containing a bat roost, a species protected under the Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2017. As the development would result in the removal of the bat roost, a licence would need to be granted by Natural England to authorise such action. That would be a matter for Natural England to consider and is separate from the determination of this appeal. Were I minded to allow the appeal, I would need to be satisfied that there was no reason in principle why such a licence would not be granted. However, as I am dismissing the appeal for other reasons there is no need for me to consider this matter any further.

Conclusion

22. I conclude that for the reasons given in each of the three main issues above, the appeal should be dismissed.

Guy Davies

INSPECTOR

⁵ MMEcology, ecological impact assessment, 2020