



Appeal Decision

Site Visit made on 25 January 2021

by Mr Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th February 2021

Appeal Ref: APP/J0405/W/20/3259821

Burston Ridge Farm, Aylesbury Road, Wingrave HP22 4RH

- 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 Simon Dewick against the decision of Buckinghamshire Council - North Area (Aylesbury).
 - The application Ref 19/02745/APP, dated 23 July 2019, was refused by notice dated 30 April 2020.
 - The development proposed is to replace a prefabricated bungalow with a new residential dwelling.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr Simon Dewick against Buckinghamshire Council - North Area (Aylesbury). This application is the subject of a separate Decision.

Preliminary Matters

3. The emerging Vale of Aylesbury Local Plan (the VALP) was submitted by the Council for examination in February 2018. Since then Main Modifications and Further Main Modifications have been made and consulted upon, with the latter consultation having commenced in December 2020. Whilst the VALP is at an advanced stage, it is currently unclear whether further public hearing sessions and/or modifications shall be required. The VALP is thus at a stage that attracts moderate weight and I shall consider the appeal on this basis.
4. The Council's reason for refusing planning permission references that the proposal would not ensure the protection of local biodiversity. However, having revisited comments made by its Protected Species Officer at planning application stage, the Council has confirmed that it no longer wishes to rely upon biodiversity protection as a part of its case. I shall consider the appeal on this basis.

Main Issue

5. The main issue is the effect of the proposal upon the character and appearance of the rural area.
6. I shall structure my reasoning by first assessing the proposed replacement dwelling upon its own merits, before considering the applicability of a potential 'fallback' position and matters pertaining to residential curtilage.

Reasons

Replacement dwelling

7. The appeal site is, for the most part, formed of an area of grassed land that sits adjacent to a complex of agricultural buildings and that contains an existing prefabricated bungalow (the bungalow) that I observed to be showing some outward signs of deterioration. Nevertheless, whilst not an inherently attractive building, the bungalow is a building of limited scale that has a low-key presence on-site.
8. The site falls within an Area of Attractive Landscape and its surroundings are typically comprised of a network of undulating agricultural fields. Whilst the main body of the site is setback from Aylesbury Road to the east, a public footpath (the footpath) runs the site's western edge.
9. The site occupies an isolated rural location. The National Planning Policy Framework (February 2019) (the Framework) indicates that isolated homes in the countryside should normally be avoided. However, the proposal is based on the provision of a replacement dwelling and thus not an additional unit of accommodation.
10. I am unaware of any adopted or saved development plan policy that refers explicitly to replacement dwellings in the countryside. Nevertheless, saved Policy GP35 of the Aylesbury Vale District Local Plan (January 2004) (the Local Plan) requires development proposals to, amongst other provisions, respect and complement the physical characteristics of the site/surroundings and the effect on important public views. Furthermore, saved Policy R8 of the Local Plan requires proposals to respect the landscape character of Areas of Attractive Landscape.
11. Emerging Policy H4 of the VALP relates specifically to replacement dwellings in the countryside. Whilst this policy does not yet command full weight, it is an important material consideration due to its direct relevance to the appeal proposal. Indeed, the VALP is at an advanced stage and offers a clear indication of the likely future direction of the development plan. Emerging Policy H4 indicates that proposals will normally be supported provided that the replacement dwelling would not be significantly greater in size (when compared to the one it would replace), would not cause significant harm to the site or its surroundings and would accord with emerging design principles.
12. The replacement dwelling would be sited close to where the bungalow is currently positioned. Indeed, amendments were made to the scheme following advice received from the Council that also included a reduction in height brought about by digging down. Nevertheless, it remains the case that a dwelling incorporating two stories of floor space is proposed upon a significantly increased development footprint (when compared to the bungalow).
13. The proposal is supported by a Landscape and Visual Impact Assessment (February 2019) (the LVIA), which confirms that the site falls within the Bedfordshire and Cambridgeshire Claylands national character area. The key characteristics of which include gently undulating land and a predominantly open arable landscape. The site and its immediate surroundings are largely reflective of such typical characteristics. The LVIA suggests that, subject to the

implementation of mitigation measures, the proposal would have a minor effect in both a landscape character and visual impact sense.

14. I accept that undulating landforms and existing vegetation act as visual barriers to views from a variety of potential long-range vantage points. However, to my mind, the LVIA somewhat underplays the significance and extent of proposal's effects when experienced by users of the footpath. Indeed, only a single footpath viewpoint south of the site is identified in the LVIA for assessment purposes.
15. It was apparent upon my own inspection that clear views of the replacement dwelling would be available for a not insignificant stretch of the footpath running southwards from the site. Whilst the replacement dwelling would be positioned against the backdrop of agricultural buildings, it would still appear as a noticeable domestic addition to the landscape. This is particularly when noting its intended height and generous dimensions.
16. The mitigative native tree and hedgerow planting that is proposed, which includes planting to an existing field boundary that runs the footpath's eastern side, would take time to properly establish and, even once mature, could not realistically be relied upon to substantially and consistently filter views of development of the height proposed. Furthermore, the extent of intended landscaping would hold some potential to appear at odds with the open rural landscape within which the site is positioned.
17. Thus, whatever the suite of materials to be used and notwithstanding the efforts made to reflect the existing complex of agricultural buildings in design terms, the proposal would have a distinct domesticating influence. Indeed, harm would be caused to the character and appearance of the rural area through bringing forward a replacement dwelling of significantly greater size when compared to the bungalow. The intended additional height and volume are particularly noteworthy factors when drawing size comparisons.

Fallback position

18. A 'fallback' position has been put forward by the appellant, whereby it has been suggested that the bungalow could be extended and that outbuildings could be constructed using permitted development rights. I do not dispute that it may be possible, using such rights, to construct single-storey extensions to create a dwelling footprint larger than that intended to be covered by the replacement dwelling. Indeed, prior approval¹ was deemed not to be required by the Council in January 2018 for a single-storey rear extension measuring 7.9m in depth.
19. However, as was indicated in pre-application advice issued by the Council in November 2018, there is significant doubt that extensions to the bungalow would ever take place. This is notwithstanding any assessment of potential development costs. Indeed, the appellant has confirmed that the bungalow was only ever built to provide temporary accommodation, is poorly insulated/designed and is hard to live in. This is consistent with my own observations, having conducted an external inspection of the property.

¹ 17/04885/HPDE

20. As regards the potential provision of outbuildings, it would be possible to construct single-storey buildings within the residential curtilage of the bungalow using permitted development rights where on land sited behind its principal elevation. Even so, when a certificate of lawfulness² confirming the bungalow's lawful residential use was issued in November 2017, it related to a tightly defined area of land that would afford somewhat limited potential to host new outbuildings.
21. It is also relevant to note that, whilst the appellant has made reference to the permitted development rights that would allow for new outbuildings to be constructed, he has not produced a detailed scheme of works (or similar) to help clearly demonstrate the opportunities that could exist and/or a genuine desire to proceed in this manner.
22. Reference has also been made to new permitted development rights introduced through the Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 2) Order 2020. This makes amendments to Schedule 2, Part 1 of the General Permitted Development Order through the addition of Class AA to allow for the enlargement of a single-storey dwellinghouse by construction of an additional storey. Nevertheless, this is subject to various conditions, which include that the developer must apply (before commencing development) for prior approval in connection to a variety of specified matters.
23. To my knowledge, no prior approval application pursuant to Class AA has been submitted and/or determined. Furthermore, it has not been evidenced/proven that it would in fact be feasible and realistic to add an additional storey to a prefabricated building that was originally erected merely to provide temporary accommodation. It has thus not been clearly demonstrated that a genuine option to construct an additional storey exists. All relevant matters considered, a comparable and implementable 'fallback' position in the event the appeal be unsuccessful has not been clearly substantiated. I attribute limited weight to the arguments that have been put forward in this context.

Residential curtilage

24. The description of development that is under consideration relates solely to a proposed replacement dwelling and no reference is made in this description to any intention to extend the residential curtilage. Indeed, the appellant has indicated that no curtilage increase is proposed as part of the appeal scheme and that the area contained within the submitted red line is representative of the residential curtilage's current extent. However, the site's planning history and my own on-site observations cast significant doubt upon this assertion.
25. The predominantly grassed area of land in question is expansive and, upon inspection, did not obviously appear/function as maintained residential garden land in its entirety. Indeed, the certificate of lawfulness issued in November 2017 related to a more tightly defined area of land closely related to the bungalow for the most part. A further application for a certificate of lawfulness³, which sought confirmation regarding an enlarged area of garden land when compared to that previously confirmed as lawful, was refused by the Council as recently as November 2020.

² 17/03639/ACL

³ 20/02978/ACL

26. Whilst it is not my role here to identify the existing lawful use of any particular area of land, the proposal would realistically be anticipated to lead to additional areas of the site being utilised for residential garden purposes and thus to a wider domestication of open areas of the site. This is particularly so when the appeal site's extent is considered in the context of the site's recent planning history. On this basis, the proposal would further exacerbate the harm to the character and appearance of the rural area that I have already identified above.
27. For the above reasons, the proposal, when considered as a whole, would cause harm to the character and appearance of the rural area. The proposal conflicts with saved Policies GP35 and RA8 of the Local Plan, emerging Policies BE2 and NE4 of the VALP and the Framework in so far as these policies require the design of new development proposals to respect and complement the physical characteristics of the site and the surroundings. The proposal also conflicts with emerging Policy H4 (Replacement dwellings in the countryside) of the VALP.

Planning Balance

28. On the basis that an additional housing unit is not proposed, the most important policies for determining this appeal are, to my mind, saved Policies GP35 and RA8 of the Local Plan. These are policies that are broadly consistent with the Framework's requirement for decisions to recognise the intrinsic character and beauty of the countryside, and thus are not out-of-date. I have therefore not applied the presumption in favour of sustainable development as set out at paragraph 11 of the Framework.
29. The scheme would offer an improvement to the District's housing stock through the replacement of the bungalow with a new, modernised and enlarged property. Nevertheless, as merely a single dwelling is under consideration, this benefit attracts limited weight. Some biodiversity benefits would be likely to arise from the new native planting that is proposed, to which I also attach limited weight. The scheme's benefits, considered cumulatively, would be modest and would not outweigh the harm and associated policy conflict that I have identified.
30. The proposal conflicts with the development plan when read as a whole and material considerations do not lead me to a decision otherwise.

Conclusion

31. For the reasons given above, the appeal is dismissed.

Andrew Smith

INSPECTOR