



Appeal Decision

Site Visit made on 11 May 2021

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th May 2021

Appeal Ref: APP/J0405/W/21/3268625

2 Anson Close, Aylesbury, HP21 8AT

- 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 Terry O'Sullivan, Just Pubs Ltd against the decision of Buckinghamshire Council - North Area (Aylesbury).
 - The application Ref 20/02395/APP, dated 13 July 2020, was refused by notice dated 14 December 2020.
 - The development proposed is development of land at the rear of 2 Anson Close, Aylesbury to provide 5 terraced houses and 1 bungalow following the demolition of 2 Anson Close.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have been referred to policies within the emerging Vale of Aylesbury Local Plan (VALP). Although the Council indicate that the VALP is at an advanced stage, it is yet to be adopted and I cannot be sure that policies will be adopted in their current form. As such, they carry moderate weight in my assessment.
3. During the appeal process, the appellant submitted a 'Flood Risk and Drainage Technical Note' seeking to address the Council's fifth reason for refusal concerning an alleged failure to demonstrate acceptable flood risk and surface water drainage impacts. Having reviewed this information, the Council in its role as Lead Local Flood Authority removed its objection to the proposal, recommending a planning condition to require further details of a drainage scheme in the event that planning permission were to be granted. Subject to provision of these details, the Council confirmed that it would no longer wish to pursue this reason for refusal, and I have considered the appeal on this basis.
4. The appellant submitted a Unilateral Undertaking (UU) planning obligation, and subsequently an amended UU dated 18 May 2021 seeking to overcome the Council's sixth reason for refusal relating to the absence of a mechanism to secure financial contributions towards infrastructure provision. I return to this matter below.

Main Issues

5. The main issues are:
 - i) the effect of the proposal on the character and appearance of the area;
 - ii) the effect of the proposal on the living conditions of the occupiers of 3 Anson Close and future occupiers of the proposed bungalow with particular regard to noise and disturbance;

- iii) the effect of the proposal on the living conditions of the occupiers of neighbouring dwellings with particular regard to privacy; and
- iv) whether or not the proposal would provide adequate refuse storage.

Reasons

Character and Appearance

6. The appeal site includes the dwelling at 2 Anson Close as well as an area of land to its rear that shares boundaries with the rear of dwellings fronting Anson Close, Wellington Road, Rutherford Road, Mandeville Road and Blenheim Place. Buildings on these streets are of mixed type and design, but are typically arranged on reasonably regular building lines with frontages to the street, albeit that the degree of set back varies. Plot sizes also vary, although rear gardens are for the most part relatively generous, and are apparent in views between buildings providing a generally open backdrop and spacious setting to the dwellings. The rear part of the appeal site predominantly comprises an open area of grass with a number of trees, and adds much to the overall impression of spaciousness around and to the rear of buildings in this area.
7. The appeal proposes to replace No 2 with a bungalow fronting Anson Close and to construct a terrace of 5 dwellings on the rear part of the site. No 2 is a bungalow of similar appearance to 1 Anson Close, and the pair are currently attached by garages to their sides. The proposed bungalow would be attached to the garage to No 1 and would extend across the majority of the width of its retained plot, although it would be much narrower than this neighbour. It would also have a deep footprint, and the garden to its rear would be significantly smaller than those of the appeal dwelling and others nearby. As a result, the dwelling would occupy a significant part of its plot, and I consider that its overall scale and mass would be disproportionate against the relatively limited space around it. Its elongated proportions would also appear awkward and unbalanced juxtaposed immediately adjacent and joined to No 1, and its position stepping forward of this neighbour would further increase the visual impact and prominence of the building in the street scene.
8. Turning to the development proposed to the rear part of the site, I do not consider that a terrace would necessarily be incompatible with the mixed form of buildings in the vicinity of the appeal site. However, the individual dwellings within the terrace would be distinctly narrow in comparison to other buildings nearby. The very limited separation between the terrace and the boundaries to its sides would also be at odds with the more spacious setting which is characteristic to other buildings in the area. As a consequence, I find that the terrace would seem cramped and squeezed onto the site. The position of the terrace to the rear of dwellings fronting Anson Close would also deprive the dwellings of a street frontage. In combination, these factors would result in an incongruous development that would be striking against the usual pattern of built form in the surrounding area.
9. Despite the appellant's suggestion that the site is not particularly visible from public vantage points, I saw that it provides appreciable openness in views between frontage buildings, including notably between 2 Wellington Road and 7-8 Rutherford Road, and between 9-10 Rutherford Road and 138 Mandeville Road. The terrace would be conspicuous in these views, as well as from Anson Close where its two-storey height would be discernible behind the lower roofs

of the bungalows on this street. Irrespective of the condition of the site and existing views of more distant neighbouring roofs, the development would significantly erode the openness on the appeal site which makes a positive contribution to the character and appearance of the area, and it would form a jarring and intrusive feature.

10. In reaching this view, I have considered appeal decisions referred to by the appellant. However, the appeal at The Willows, Thrapston concerned an outline application with details of the precise scale of the buildings to be confirmed as part of a subsequent reserved matters application. The decision also refers to a limited visual envelope and little visual impact of that development beyond the immediate context of the site, further differentiating it from the appeal proposal where there would be clear views of the development from the surrounding streets. The appeal at Lawton Road, Loughton also relates to a different form of development, and with regard to the limited details before me it would appear that the circumstances and relationship with its surroundings were not directly comparable to the appeal proposal. Accordingly, I do not find that these appeals offer compelling support for the development before me.
11. For these reasons, I find that the proposal would result in a cramped and unsympathetic form of development at odds with the more spacious nature of its surroundings. I therefore conclude on this main issue that the proposal would cause unacceptable harm to the character and appearance of the area and would conflict with Policy GP35 of the Aylesbury Vale District Local Plan 2004 (AVLP) and Policy BE2 of the emerging VALP. Together, these policies broadly require that development respects and complements local distinctiveness and character. There would also be conflict with the National Planning Policy Framework (the Framework) insofar as it requires well-designed places and development that is sympathetic to local character.

Noise and Disturbance

12. The proposal includes a driveway access between the proposed bungalow and the boundary with 3 Anson Close. To the side of No3, there are windows facing the boundary of the appeal site, and while these appeared frosted, there are also windows which appear to serve habitable rooms to the front and the rear. The layout of the proposed bungalow would include openings to the side facing the driveway serving a kitchen and dining room, with a further front window to the dining room and a rear window to a bedroom set close to corners of the dwelling. The driveway would run very close to the sides of both of these buildings, and would also extend along the full depth of their rear gardens.
13. The driveway would serve the 5 dwellings to the rear part of the site as well as parking for the bungalow, with a total of 17 parking spaces shown. As a result, it seems to me that the proposal would realistically result in fairly regular vehicle movements along the driveway. I accept that vehicles would be likely to be travelling at relatively low speeds. Even so, there would still be tyre and engine noise, and this would be likely to be heightened by the inclusion of speed bumps to the narrowest section of the driveway passing the adjacent dwellings.
14. At my visit, I found the appeal site to be generally peaceful, and I did not experience a particular impression of background noise levels from nearby roads or other sources. Against this, I consider that the introduction of vehicle movements in such close proximity to habitable rooms and gardens to No 3

and the bungalow on the site would be intrusive and would result in noise and disturbance that would be very noticeable, detracting from the quality of life of these neighbouring occupiers.

15. The appellant suggests that the arrangement would be similar to other cul-de-sacs. However, I have not been referred to any examples of comparably close relationships between dwellings and accesses, and the weight that I afford to this assertion is therefore limited.
16. For these reasons and in the absence of substantive evidence to demonstrate otherwise, I conclude that the proposal would cause harm to the living conditions of the occupiers of 3 Anson Close and future occupiers of the proposed bungalow through noise and disturbance. Accordingly, it would conflict with Policy GP8 of the AVL P and Policy BE3 of the emerging VALP which broadly seek to avoid unreasonable harm to the amenity of neighbouring residents. It would also be contrary to the expectation within the Framework that development provides good standards of amenity for existing users.

Privacy

17. The main outlook from windows to the front of the proposed terrace would be onto the parking to their front with considerable separation to properties on Anson Close beyond. Views towards adjacent gardens would be possible, including to the gardens of 2 and 4 Wellington Road and 12 and 13 Blenheim Place which the Council identifies as of particular concern. However, the relationship would not be unusual within a residential area such as this. Views would also be oblique, and in the case of 2 and 4 Wellington Road and 12 Blenheim Place at a very tight angle and with increased separation to the garden to 13 Blenheim Place. Taking these factors together, I do not consider that the development would cause a harmful loss of privacy or unacceptable overlooking to these neighbouring gardens so as to be intrusive.
18. Windows to the rear of the terraced dwellings would face towards the rear of 136 and 138 Mandeville Road, and more obliquely towards 134 Mandeville Road. However, even the more conservative separation distances quoted by the Council indicate at least 32m between the development and these neighbours. This would in part be a result of the depth of the gardens to Nos 134-138, but there would also be gardens of reasonable depth to the rear of the development. In my judgement, this relationship would provide sufficient separation to the boundary to prevent harmful overlooking into the adjoining gardens and to maintain suitable privacy for these neighbouring occupiers.
19. However, there would be much less separation to the rear of 9 and 10 Rutherford Road. Views towards these neighbours from the closest windows to the rear of the dwelling on plot 5 would be oblique, but would not be beyond my experience of a normal field of view, and vegetation to the boundary or within the neighbouring garden would offer only very limited screening. Given the very close proximity of the plot 5 dwelling to the boundary, I consider as a result that there would be a significant degree of overlooking from its rear, diminishing the use and enjoyment of the garden space to the detriment of the living conditions of the occupiers of Nos 9 and 10.
20. I therefore conclude on this main issue that there would be unacceptable harm to the living conditions of the occupiers of 9 and 10 Rutherford Road through loss of privacy. As a consequence, and notwithstanding my findings that

suitable privacy would be maintained for occupiers of 2 and 4 Wellington Road, 12 and 13 Blenheim Place and 134-138 Mandeville Road, there would be further conflict with Policy GP8 of the AVL P and Policy BE3 of the emerging VALP, as well as with the Framework.

Refuse Storage

21. The appellant's Waste and Recycling Strategy (WRS) outlines that each dwelling would be provided with separate bins for general waste, food waste, garden waste and recycling which would be stored within their boundary. On collection day, residents would be responsible for taking bins to a collection point on the footpath close to the junction of the access with Anson Close.
22. The Council is concerned that this arrangement could result in impacts on the safety or operation of the highway as a consequence of extended collection times. However, I agree with the appellant that in reality the additional time required to empty bins associated with 5 additional dwellings on the site would be likely to be limited. Moreover, Anson Close is a cul-de-sac serving a small number of properties resulting in low levels of pedestrian or vehicular traffic past the site. I do not therefore consider that there would be serious detriment to other highway users.
23. However, the submitted details do not clearly indicate a dedicated collection area within the site. Although the appellant suggests that there would only be 5 additional bins along Anson Close on collection day, the WRS suggests that waste, food and garden collections take place on the same day resulting in a greater number of bins on these occasions. From the evidence before me, I am uncertain whether or not these could be suitably accommodated on the site for collection alongside the need to maintain access. Moreover, the Council advises that the dwellings to the rear of the site are around 80m from Anson Close. Residents would therefore be required to move bins a significant distance for collection, far more than the 25m guideline referred to by the Council. This would be somewhat inconvenient for occupiers, and could also act to discourage prompt retrieval of bins after collection leading to unwelcome visual clutter through a more prolonged proliferation of bins around the access.
24. I therefore conclude on this main issue that it has not been demonstrated that there would be satisfactory provision for the storage of waste on the site, and that this would cause harm to the character and appearance of the area. As a consequence, the proposal would conflict with requirements within Policy GP35 of the AVL P and Policy BE2 of the emerging VALP seeking development that respects and complements its site and surroundings.

Other Matters

25. The amended UU makes provision for financial contributions requested by the Council towards education, leisure and open space provision. However, given the harm that I have identified above and that I am dismissing the appeal for other reasons, it is not necessary for me to consider this matter in any further detail as it could not alter my decision.
26. I have taken into account that the proposal would make effective use of the site, and would deliver 5 additional dwellings in an accessible location which would contribute to the supply of housing locally. In these regards, it would align with objectives within the Framework and development plan seeking to

significantly boost the supply of housing and to direct development to sustainable locations. The Framework also highlights that small and medium sized sites such as the appeal site can make an important contribution to meeting the housing requirement of an area and are often built-out relatively quickly. However, the small scale of the development means that the contribution to the supply of housing would be modest. Associated economic benefits through the construction and occupation of the development would similarly be limited. In this context, I do not find that the benefits of the proposal would be sufficient to outweigh the harm I have identified above and the significant weight I afford to the resulting conflict with the development plan.

27. I note the appellant's comments regarding difficulty in communicating with the Council, that it gave little opportunity to address concerns, and has not worked in a positive and creative way as sought by the Framework. Nevertheless, this is not a factor which alters my consideration of the planning merits of the proposal.

Conclusion

28. For the reasons given above, the proposal would conflict with the development plan when it is read as a whole, and material considerations do not indicate that a decision contrary to the development plan should be reached. I therefore conclude that the appeal should be dismissed.

J Bowyer

INSPECTOR