The Planning Inspectorate

Appeal Decision

Site visit made on 24 August 2021

by Tom Gilbert-Wooldridge MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 10 September 2021

Appeal Ref: APP/J0405/W/21/3267955
Buckingham Primary Care Centre, Buckingham Community Hospital, High Street, Buckingham MK18 1NU

- 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 outline planning permission.
- The appeal is made by The Swan Practice against Buckinghamshire Council - North Area (Aylesbury).
- The application Ref 20/01332/AOP, is dated 21 April 2020.
- The development proposed is the removal of existing development and the construction of up to 8 new residential dwellings.

Decision

1. The appeal is dismissed and planning permission for the removal of existing development and the construction of up to 8 new residential dwellings is refused.

Preliminary Matters

2. The application was made in outline with all matters reserved. A block plan has been provided showing an indicative layout for 8 dwellings. While I have taken this plan into account, it is purely illustrative at this stage.

3. There is a related appeal made by the same appellant on a different site within Buckingham (ref APP/J0405/W/21/3267952 at Verney Close). There are common issues between both appeals, but also differences. Therefore, I have dealt with each appeal in separate decisions.

4. The address in the banner heading above is taken from the application form. However, the site is more accurately known as North End Surgery and so I have referred to this name in my decision.

5. A new version of the National Planning Policy Framework (NPPF) was published on 20 July 2021. The parties were given the opportunity to comment on any relevant changes and I have taken these comments into account.

Main Issues

6. The main issues are:

   (a) the effect of the proposed development on the provision of community facilities and employment;

   (b) the effect of the proposed development on biodiversity; and

(c) whether the proposed development should make provision towards off-site sports and leisure facilities and primary and secondary education.

Reasons

Community facilities and employment

7. The appeal site contains North End Surgery and associated parking and access from the High Street. The surgery forms part of The Swan Practice which provides medical services across three sites in Buckingham (including at Verney Close). The Buckingham Neighbourhood Development Plan 2015 (NDP) identifies the site as a health facility, with Policy CLH4 supportive of new or extended health care provision on such sites.

8. Policy GP93 of the Aylesbury Vale District Local Plan 2004 (DLP) states that the Council will resist proposals for the change of use of community buildings and facilities for which there is a demonstrable local need. In considering applications for alternative development or uses, the Council will have regard to the viability of the existing use, the presence of alternative local facilities, and the community benefits of the proposed use. The supporting text in paragraph 4.244 states that community facilities make a vital contribution to the social and economic life of the community and include doctors surgeries. It is not uncommon for supporting text to provide clarity to policies.

9. NDP Policy CLH4 and DLP Policy GP93 are broadly consistent with the NPPF which identifies health infrastructure as community facilities in paragraph 20 and seeks, in paragraph 93, to plan positively for the provision of such facilities, guard against the unnecessary loss of valued facilities, and ensure that established facilities are able to develop, modernise, and be retained. As a consequence, there is no reason to say that either policy is out of date or should be afforded reduced weight.

10. The draft text to Policy I3 of the emerging Vale of Aylesbury Local Plan (VALP) also refers to doctors surgeries as community facilities. The policy resists the change of use of such facilities unless the loss resulting from the development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location. The policy sets out the same considerations as DLP Policy GP93 for any application for alternative development or use, but also refers to the marketing of the site/use for a minimum period of 12 months at a price commensurate with its use together with proof there has been no viable interest.

11. The VALP was submitted for examination in February 2018 and has been subject to main modifications consultation between 2019 and 2021. The Council has indicated that Policy I3 can be afforded moderate weight as it has been subject to objections but also has been part of the main modifications consultation agreed by the Inspector. In the absence of any contrary view or information, moderate weight to Policy I3 is reasonable.

12. Medical or health services such as a doctors surgery were previously within Class D1 of the Use Classes Order 1987 (UCO) which covered a range of non-residential institutions. They now fall within the new Class E of the amended UCO which contains a range of commercial, business and service uses including shops and offices. They do not fall with the new Class F2 which cover local community uses. However, the definition of community facilities in planning

terms has never been restricted to a single use class. Public houses for example used to fall within Class A4 and are now sui generis yet are still generally regarded as community facilities. Therefore, the amended UCO does not alter my view that the existing site use is a community facility.

13. DLP Policy GP17 seeks to retain existing employment sites and uses and only permit changes of use or redevelopment where specific criteria are met. The DLP does not clarify what is an employment site although the VALP refers to offices, general industrial and storage/distribution uses. Nevertheless, the Council accepts that due to the out of date evidence based underpinning Policy GP17, it can only be afforded very limited weight. I see no reason to disagree.

14. The existing surgery building is single storey and contains a number of consultation rooms and offices accessed from a main entrance and connecting corridors. The appellant argues that the existing building is outdated, too small and unable to meet with the compliance requirements of the Disability Discrimination Act. While it was apparent at my site visit that the building could benefit from modernisation, I have limited evidence to support these points.

15. The appellant also argues that the three existing Swan Practice sites will move to a new health centre within the Lace Hill development on the southern edge of town. It is argued that the redevelopment of the appeal site would help to fund the setting up of a new practice at Lace Hill. It is evident that the Lace Hill health centre benefits from outline planning permission with reserved matters application required to be submitted by 24 December 2021. To my knowledge, even though the only reserved matter relates to landscaping, no applications have yet been submitted. The site is a vacant undeveloped plot at Lace Hill between an existing supermarket and an emerging care home. It is unclear who is responsible for the delivery of the health centre. The Council states that the Lace Hill developer is still active, while the appellant refers to negotiations between the practice and the landowner.

16. Notwithstanding the lack of submitted evidence, it may be the case that the redevelopment of the appeal site is necessary to provide modern facilities at Lace Hill. Nevertheless, the adopted and emerging policy context seeks to resist the loss of community facilities for which there is a demonstrable local need. It has not been adequately demonstrated that there is no interest in an alternative community facility or use, with no marketing or other evidence presented. The lack of viability in terms of the continued existing use of the building as a surgery has not been properly addressed in the evidence before me, mindful that NDP Policy CLH4 seeks new or extended health care facilities on this site.

17. There is little evidence to show that it would not be possible for the building to be adapted and re-used or redeveloped for a community facility that would still enable the surgery to relocate. The development of housing would provide some benefits but not ones that could be classed as a community benefit other than in a general sense. Moreover, given the doubts over the delivery of the health centre, it is not certain that the existing surgery would be replaced by equivalent or better provision at Lace Hill. It is unlikely the surgery would move before another location was ready, while at the same time the planning system cannot prevent the surgery from closing. However, the proposed development would still result in the loss of a community facility and use to the disbenefit of the local community.

18. Notwithstanding the very limited weight to DLP Policy GP17, and doubts regarding its applicability, a continued community facility and use would provide longer term employment opportunities that would not be the case with housing beyond their construction and servicing. For the avoidance of doubt, even if Policy GP17 was not applicable, it would not affect the weight to be given to the conflict with policies relating to community facilities.

19. NPPF paragraph 81 states that planning should help businesses to invest, expand and adapt, while NPPF paragraph 96 seeks the faster delivery of public service infrastructure including health care though councils working proactively and positively with relevant organisations to plan for required facilities and resolve key planning issues before applications are submitted. It is unfortunate that the appellant has had to appeal on the grounds of non-determination to progress their proposed development and that there appears to be a lack of collaborative working between relevant organisations. However, this does not diminish the importance of the policy context relating to community facilities or negate the potential impact of the loss of such a facility and use from this site.

20. Based on the evidence before me, the proposed development would have an unacceptable effect on the provision of community facilities and employment. Therefore, it would conflict with DLP Policies GP17 and GP93, NDP Policy CLH4, and VALP Policy I3, as well as NPPF paragraph 93.

Biodiversity

21. The existing building is surrounded by landscaping including trees and shrubs. The planting is not particularly mature and the site is not subject to any wildlife designation, while the building is a relatively modern construction. However, there may be potential for habitats and species to be present given the extent of landscaping and there is also the opportunity to enhance biodiversity within the site. Therefore, it is necessary to provide information at this stage to better understand the existing and future biodiversity potential of this site.

22. The Council has not raised biodiversity objections in respect of the Verney Close proposal. It is not entirely clear why, although the surgery building there is surrounded by a tarmac car park. Nevertheless, the lack of objection on that site does not diminish the need to provide biodiversity information for this site.

23. Based on the evidence before me, it is not possible to say the proposed development would have an acceptable effect on biodiversity. Therefore, it would not accord with NDP Policies DHE2, 3 and 5, VALP Policy NE1, and NPPF paragraphs 120(a), 174(d) and 180(d). These policies and paragraphs seek the provision of ecological information and the protection of habitats and species as well as a net gain in biodiversity from developments.

Sports and leisure facilities / primary and secondary education

24. DLP Policies GP86 and GP87 require new housing to provide sufficient outdoor play space and equipped play areas for children, while Policy GP88 clarifies that financial contributions will be sought where off-site provision is more practicable. NDP Policy CLH2 seeks the provision of open accessible green space for new developments, but the wording indicates that the provision and calculations will only apply to dwellings on allocated housing sites within the NDP rather than windfall sites such as this one. Therefore, the policy does not seem to be applicable.

25. No legal agreement has been provided by the appellant to secure the financial contribution. While it is unfortunate that the Council did not indicate the need for such a contribution during the application process, the NDP does identify and evidence a large deficit and requirement for sports facilities within the town. Therefore, the lack of provision would be a missed opportunity to improve the current shortage.

26. The Council's education service has identified the need for a financial contribution towards primary and secondary school provision to address significant housing levels approved within the area. Again, there is no legal agreement to secure such a provision, which could result in the development having negative effects on education facilities within Buckingham.

27. Based on the evidence before me, the proposed development should make provision towards off-site sports and leisure facilities and primary and secondary education. Without such provision, the development would conflict with DLP Policies GP86, GP87 and GP88. There would also be conflict with VALP Policies I1, I2 and I3 which seek the provision of green infrastructure, sports and recreation facilities, and community facilities like schools.

Other Matters

28. The appellant states that the development would have no impact on the character and appearance of Buckingham Conservation Area or the setting of two nearby listed buildings, and that it would not harm the living conditions of occupiers of neighbouring properties. Interested parties have raised concerns about these matters, but even if the appellant is correct, the absence of harm is neutral rather than positive in the overall planning balance. Given my overall decision, it has not been necessary to consider these matters in any detail. While it may be possible to deliver residential units that comply with national space standards and provide acceptable levels of space for parking, gardens, and bins, these are neutral matters in the absence of any details.

29. The site currently generates a number of vehicle trips by people accessing the surgery. It is likely the number of trips would reduce as a consequence of residential development. However, the access from the High Street would continue to be used by vehicles going to and from the hospital. In the absence of more detailed information, this benefit only carries modest weight.

30. In terms of other environmental benefits, the town centre location is sustainable and the development would make effective use of previously developed land. There would also be social and economic benefits from the construction and occupation of up to 8 houses. However, given the limited number of houses, these benefits can only be afforded modest weight. The benefits taken as a whole would not outweigh the adverse effects I have identified particularly in terms of community facility provision.

Conclusion

31. For the above reasons, and having had regard to all other matters raised, I conclude that this appeal should be dismissed and planning permission refused.

Tom Gilbert-Wooldridge

INSPECTOR