



Appeal Decision

Hearing Held on 28 September 2021

Site visit made on 27 September 2021

by J E Jolly BA (Hons) MA MSc CIH MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 October 2021

Appeal Ref: APP/J0405/W/21/3271502

New Park Farm, Arncott Road, Boarstall OX5 2FE

- 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 Miss Janet-Marie MacTavish against the decision of Aylesbury Vale District Council.
 - The application Ref 20/01665/APP, dated 26 May 2020, was refused by notice dated 6 January 2021.
 - The development proposed is for the erection of a dwelling and use of existing as annexe accommodation.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellant has brought to my attention that the full postal address of the appeal site is New Park Farm Cottage, Arncott Road, Boarstall OX5 2FE, which I noted at my site visit corresponds with signage at the appeal site and more accurately describes the appeal address than the address provided on the Appellant's submitted application and appeal forms.
3. On 20 July 2021, the Government published its revised *National Planning Policy Framework* (the Framework). The main parties were invited to comment on any changes relevant to the appeal before me. I note however, that the main parties have made no comments in respect of these changes.
4. At the Hearing, the Council was able to confirm that the Vale of Aylesbury Local Plan (VALP) was adopted on 24 September 2021. As such, the emerging policies of the VALP, in addition to any saved policies within the Aylesbury Vale District Local Plan 2004 (AVDLP), which the Council relied upon in its decision notice, are now afforded full weight. I have proceeded accordingly.
5. I acknowledge that the appellant has a number of concerns regarding the Council's administration of the application. However, this is a matter for the parties and not for my consideration as part of this case.

Main Issues

6. The main issues are:

- whether the proposal is in a suitable location,
- the effects on the living conditions of future occupiers, and;
- the effects on biodiversity.

Reasons

Suitable location

7. The appeal site is located in the countryside approximately 6 miles from the town of Bicester and beyond the settlement boundaries of the nearby Arncott, Boarstall and Murcott in a rural type area that is characterised by hedge and tree-lined agricultural fields.
8. 'New Park Farm' is located at the end of an asphalt drive that is accessed from Arncott Road, and is sited between the adjacent M40 motorway, the 'Oaksvie Park' travellers site, a car breakers yard and a range of Ministry of Defence (MOD) type facilities that are found on either side of Arncott Road.
9. The drive leads directly to two linear blocks of black-timber clad and brick-built stable type buildings. The buildings overlook an active stable courtyard and include 'New Park Farm Cottage' (the Cottage) on the right-hand side of the yard that is nearest to the drive. To the left-hand side of the drive there is a gated entrance to 'New Park Farmhouse' and to the right-hand side of the drive there is a pitched store shed and a wide apex barn which are accessed via a metal gate.
10. The Cottage is a simple brick-built dwelling with a tiled roof that looks over a small wall and patio to both the front and rear. While the front of the dwelling looks onto the stable-yard, the rear patio faces towards a store and barn area which has a fenced 'manage' area. The store and barn are bordered by trees to the side and rear boundaries. The rear boundary also includes an open rail metal gate that provides access into paddocks from which the fields to the front and side of 'New Park Farm' can readily be seen, as well as the neighbouring dwelling of 'New Park Farmhouse'.
11. 'New Park Farmhouse' has a pond type area to the front gate, a well to one corner of the rear garden and a bridged arched-shaped pond to the side of the dwelling nearest to the M40 motorway. In addition, there is a pond beyond the Farmhouse garden enclosure.
12. The proposal is to construct a 3-storey dwelling in traditional type materials. The dwelling would have parking and form an 'L'-shaped development with the part of the stable block that includes the Cottage and would face in the direction of the existing store shed and barn. The Cottage would be retained as annexe accommodation and would be linked to the proposal via a carport.

13. My attention has been drawn to numerous planning applications and appeals on or near to the appeal site, some of which are of a certain vintage. However, while the Appellant has submitted a comprehensive list of the applications, including some in support of her case, and notwithstanding specific reference to a number of those schemes at the Hearing¹, I have limited details of those schemes before me. Nonetheless, I also heard that a previous planning permission had been granted for a similar proposal for the site to the one before me which has now lapsed². Mindful of this I have assessed the merits of the appeal proposal against current national and local policies.
14. The parties agree that the proposed development would be in the countryside. Nonetheless, the appellant contends that there have been many changes to the character and appearance of the area surrounding the appeal site over a number of years. I acknowledge that the highly visible and audible M40 motorway, 'Oaksvie Park', the breakers yard and the nearby MOD facilities combine to diminish the wider landscape value along Arncott Road. I also acknowledge that the site is in close proximity to an established and traditional farm-yard type cluster comprising a detached farm-house, modest stable-style structures and agricultural barns.
15. Nevertheless, the development would comprise a substantial dwelling of some considerable bulk and mass that would be at right-angles to the low-key and linear stable blocks. The proposal would not only be higher than the existing stable blocks, and the mostly one-storey properties seen on 'Oaksvie Park', but also be of a scale and width that would erode the views to the adjoining paddocks to the rear of the Cottage stable block and the countryside beyond. Additional landscaping would not provide a satisfactory transition between the existing development and countryside at this location.
16. The Council pointed out that the appeal site is located approximately 2.5km to Boarstall, 1.2km to Murcott and 1.5km to Arncott. In noting the 'Braintree Judgement' 2017³ I acknowledge that the site is not an 'isolated' location in the countryside. However, the suitability of the location for residential dwellings should still be considered in respect of access to local services and facilities. While there is, for example, a convenience store in Arncott, I noted at my site visit that the rural nature of unlit roads and pathways where they exist would be likely to be less attractive to some pedestrians at certain times of the day and during the colder months of the year. As such, given the distance to Bicester and the limited public transport options available in the surrounding area, it is likely that the occupiers of the proposal would be reliant on a motor vehicle to access even the most basic of services.
17. The appellant suggested that the proposal would comprise infilling in the manner set out in Policy D5 of the VALP. However, this policy provides for permission of new homes in identified settlements that are a result of the infilling of small gaps on developed frontages.

¹ 03/02759/AGN, 07/00889/APP, 07/02760/APP and APP/J0405/W/18/3193773

² 01/00627/APP

³ Braintree District Council v SSCLG & Ors (2017) EWHC 2743

18. However, the proposed development would not only be located beyond any recognised settlement boundary, but also be sited at some distance from the highway at the end of a relatively long access drive. Indeed, the Council accurately defined 'infilling' as the closing of a small gap in development fronting/facing onto the highway. In this case, the dwelling would represent a self-contained addition to the existing built form rather than an infilling of a small gap in development.

19. Therefore, I find that in respect of a suitable location that the proposal is contrary to the aims of Policy GP35 of the AVDLP and Policies S1, S2, D5, BE2 and NE4 of the VALP, and Paragraph 79 of the Framework which says housing should be located where it will enhance or maintain the vitality of rural communities.

Living conditions

20. The appellant's site layout plan (NPF70b) did not form part of the plans upon which the Council made its decision which included a site location plan, drawing No 1125/20 – Plans and Elevations, and a scaled Ordnance Survey map. Nevertheless, while not determinative, I noted NPF70b at the Hearing for comparative purposes and to aid my determination.

21. The appellant's submitted location plan shows that the proposed development would be set back from the rear elevation of the stable block. As such, the Council determined that the occupiers of the proposed dwelling would be likely to have limited garden space, which would be detrimental to their living conditions. I concur that the outside space available to the occupiers of the proposed dwelling for the purposes of, for example but not limited to, sitting out, recreation, small-scale gardening etc., would be relatively small in relation to a dwelling of this size and type.

22. However, the appellant would be willing to provide an additional space to the rear of the proposed dwelling in a form of a garden type area that would border the paddocks beyond, as shown on her comparative but not determinative layout drawing. However, following the 'Wheatcroft' judgement the appeal process should not be used as a means to progress alternatives to a scheme that has been refused.

23. In this case, while the garden area would be relatively small in comparison to the wider countryside, the amendments would nevertheless enlarge and extend the proposal beyond the 'redline' of the submitted site location plan. Therefore, in my view, if I were to accept those changes, the amendments would materially alter the proposed development such that to grant it would result in a development substantially different from that previously consulted upon. As such, I find that there is a material conflict with the 'Wheatcroft' principles.

24. Subsequently, in respect of the living conditions of future occupiers, the proposal before me fails to accord with GP8 of the AVDLP and Policy BE3 of the VALP, and Paragraph 130 (f) of the Framework which says that developments should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Biodiversity

25. The appeal site is located near to a number of ponds, including that found within the grounds of the Farmhouse. As such, following the submission and consultation with the Council's Protected Species Officer, the Council required biodiversity information in the form of a Preliminary Ecology Assessment (PEA). As the proposal would likely to be in a 'red-zone' for Great Crested Newts the information was required by the Council to determine whether the proposed development would have an adverse impact on Great Crested Newts and their habitats and any need for licensing. Indeed, the Council's Ecology Officer told the Hearing that not only the ponds but also the terrestrial habitat surrounding the appeal site could provide suitable areas for Great Crested Newts.
26. Whether the Council proactively requested an assessment or not, the appellant confirmed at the Hearing that no such assessment has been undertaken. Rather, the appellant had relied upon the findings of a 'Survey and Assessment of Land at 'New Park Farm', Murcott for Great Crested Newts', dated May 2008, undertaken by the Greensand Trust, and a document recording a site visit carried out by the Environment Agency on 26 June 2018, which suggested that Great Crested Newts would be unlikely to favour the habitat on and surrounding the appeal site due to the likelihood that the immediate area is contaminated by sewage run-off from the adjacent site known as 'Oakview Park'.
27. The Council argued that an up-to-date PEA should be submitted at the application stage and not be left to be submitted following any grant of permission. I accept that developments likely to affect biodiversity, in this case potentially the protected Great Crested Newt species, should be supported by adequate and up-to-date information so that likely impacts can be effectively evaluated. The appellant's submitted evidence is a number of years old and does not contain a PEA. Therefore, I am not persuaded that the evidence is reliable as a consequence of the passage of time or in terms of the type and extent of the information provided.
28. It follows then that in respect of biodiversity the proposal does not meet the requirements of Policy NE1 of the VALP, which says that sufficient information must be provided for the Council to assess the significance of the impact against the importance of the protected site and the species which depend upon it, and Paragraph 174 of the Framework, which aims include that the planning system should contribute to and enhance the natural environment.

Personal circumstances and other matters

29. The Hearing heard that the appellant bought the Cottage under the impression that previous schemes for the site would lead to a planning determination in her favour for a proposal that has been supported by the Parish Council and an interested party who submitted a letter in favour of the development.
30. I acknowledge that this failed assumption is likely to have caused her some distress. Indeed, I heard that the appellant intended to accommodate a stable hand in the Cottage at a low-cost rent on completion of the new dwelling in order not only to improve site security, but also to have help around the yard/with horses. Moreover, the appellant told the Hearing that she wants to provide a larger home for her immediate and wider family members.

31. However, even if a Unilateral Undertaking would be forthcoming to limit the use of the annexe, I do not consider that the personal circumstances in this case, or the provision of a new dwelling and its likely associated economic or other benefits, are sufficient to outweigh the conflict with the Policies in the VALP or AVDLP, or moreover the combined harm I have found above.

Conclusions

32. Having considered all matters raised in support of the development I find that the other considerations in this case do not clearly outweigh the harm that I have identified.
33. The proposed development would conflict with the adopted development plan and the Framework, and there are no material considerations indicating a decision otherwise than in accordance with those Policies. Therefore, I conclude that the appeal should be dismissed.

J E JOLLY

INSPECTOR

APPEARANCES

For the Appellant:

- Miss Janet-Marie MacTavish
- Mr Lawrence Victor Odell

For the Local Planning Authority:

- Dipanwita Chatterjee – Senior Planning Officer (Buckinghamshire Council)
- Paul Holton – Ecology Officer (Buckinghamshire Council)
- Mark Aughterlony – Development Manager (Buckinghamshire Council)