



Appeal Decision

Site Visit made on 3 November 2021

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 November 2021

Appeal Ref: APP/J0405/W/21/3276451

Stable Cottage, 42 Bishopstone Road, Stone HP17 8QX

- 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 Shaw against the decision of Buckinghamshire Council - North Area (Aylesbury).
 - The application Ref 20/03293/APP, dated 27 September 2020, was refused by notice dated 1 April 2021.
 - The development proposed is demolition of tractor shed, storage barn and abandoned cottages. Construction of a new house set into the landscape against ha-ha wall with green roofs, improved wild flower meadows and refurbished pond and spring.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the appeal was lodged, the Vale of Aylesbury Local Plan 2021 (LP) has been adopted by the Council and now forms part of the development plan for the area. The LP policies replace those referred to in the Council's refusal reasons. The appellant has had the opportunity to submit comments on the LP.

Main Issues

3. The main issues are (i) whether the proposal would be in a suitable location having regard to LP policies and the National Planning Policy Framework (the Framework), (ii) its effect on the character and appearance of the area, and (iii) its effect on great crested newts (GCNs).

Reasons

Suitability of location

4. Policy S2 of the LP sets out a spatial growth strategy and identifies locations where housing should be developed. Under this policy, Stone is identified as a larger village where housing growth may be permissible. However, LP policy D3 restricts development in larger villages to allocated sites or small scale proposals within built up areas. Development is permissible where it represents infilling or consolidates existing settlement patterns without harming important settlement characteristics.
5. The main section of the appeal site currently forms part of a larger field. It contains the remains of derelict cottages but it is generally vacant of buildings and is grassland. The cottages may have previously formed part of Stone. However, at the current time, the general openness of the site is in stark

contrast with the cluster of nearby properties along the road and the dense pattern of development in the village. As such, the plot is seen as lying beyond the built-up area rather than within it. Moreover, the proposal would not infill a gap in a developed frontage and would not follow or integrate with any well-defined settlement pattern. Consequently, it would not comply with the terms of LP policy D3 and so it would not follow the LP's spatial strategy

6. The development would be near the properties on the road and so it would not be isolated. Also, it would be reasonable for occupants to walk from the dwelling to the primary school, shop, public house and other facilities in Stone. Moreover, there are bus stops within a short walking distance which are served by frequent buses to and from Aylesbury, Oxford and other larger settlements. As such, the scheme would be located where it would maintain the vitality of a local community and allow opportunities to walk and use public transport. In these regards, it would comply with the provisions of the Framework as well as parts of LP policy S1.
7. Even so, these factors do not fully address or override the conflict with the LP's spatial strategy. For these reasons, I conclude the development would not be in a suitable location having regard to the LP policies S2 and D3.

Character and appearance

8. The land on the site slopes down from the rear of the nearby houses towards the ponds. There are views of the site and fields and vegetation beyond from the Bishopstone Road properties and from the public right of way along the field boundary. The plot is not designated for its landscape importance or value but it is seen as part of the wider countryside that forms an attractive rural setting to Stone.
9. There are aspects of the scheme that would help conceal the house so it would not be as visually intrusive compared to a dwelling of more conventional construction. It would be single storey, would be built into the slope of the land and would have a flat roof planted with grass and wildflower. Also, it would be positioned away from the nearby properties and public footpath with its more exposed elevations orientated towards the ponds. In addition, new planting is proposed.
10. Nevertheless, the submissions do not convincingly demonstrate the proposal would be totally hidden. From the rear windows of the nearby houses the proposed driveway would be visible despite the line of trees on either side. Also, it is likely the changes to the natural land form to construct the development would be noticed. In particular, there is potential that the unnatural drop in levels at the ha-ha wall and at the edges of the dwelling would be viewed from the higher vantage points at the nearby properties.
11. Also, from the length of public footpath along the southwest boundary of the site, the exposed elevations of the house and parking area would be visible, albeit from a tight angle. The plans show boundary hedging would be retained and improved but planting cannot be relied upon to conceal the development for perpetuity.
12. Moreover, the proposal would introduce a new residential use onto the field. The defined application site is markedly larger than the footprint of the dwelling and the enclosed garden. As such, it is likely that outdoor activities such as

drying of clothes, play, gardening and other forms of domestic recreation would have a visual impact. Also, a condition that removes permitted development rights that relate to curtilage buildings would not prevent the installation of domestic paraphernalia which falls outside of planning control. Together with the physical changes to the appearance of the field, the visual effect of the residential use would undermine the site's contribution to the rural nature of the area and would harm the intrinsic beauty of the countryside.

13. The demolition of the remains of the cottages would be clearly noticed from the public footpath and nearby properties. However, the ruins do not significantly detract from the landscape but instead provide a feature of historic interest. Therefore, their removal would be of little benefit to the visual qualities of the site. Also, the outbuildings to be removed are near to, and seen with the properties on Bishopstone Road. As such, their demolition would lead to no marked enhancement of the rural landscape.
14. For the above reasons, I conclude the development would harm the character and appearance of the area. In these regards, it would not accord with LP policies BE2 and NE4 which, amongst other things, seek to ensure development respects the landscape and the characteristics of a site and its surroundings.

Effect on GCN's

15. The Conservation of Habitats and Species Regulations 2017 (as amended) impose a duty on me to consider whether a European Protected Species (EPS) would be affected by the proposal and whether mitigation would be effective. In carrying out this duty, I am required to take account of the 'derogation tests' set out in regulation 55 of the 2017 Regulations. These would need to be met for a EPS licence to be issued.
16. The appellant's ecological survey report acknowledges that GCN's, an EPS, are present in the area and are likely to use the grassland on the site as terrestrial habitat. A further district licence report sets out various mitigation measures to reduce the risk of GCN's being injured during construction works as well as planning conditions to secure these measures. In light of this extra report and the appellant opting into the district licencing scheme, it seems the Council are satisfied that the issue could be addressed through the imposition of the suggested conditions. As there is no reason in principle why a EPS licence would not be granted, I conclude the development would have an acceptable effect on GCN's.

Other considerations and planning balance

17. The appellant refers to an appeal decision¹ that relates to a site in Long Crendon, in which a subterranean dwelling was granted planning permission. However, this site is described as being within the general extent of the settlement and so it is unlike the current proposal. Also, the partly underground house at Whitchurch was granted planning permission prior to the adoption of the LP and at a time when the development plan policies were deemed out of date. As such, the planning policy context in which this scheme was considered is different to the existing situation. For these reasons, the previous decisions are not directly comparable to the appeal scheme and so they have little influence on my assessment.

¹ Appeal Ref: APP/J0405/A/13/2199623

18. The proposal would not be easily seen with the nearby Stone House, 30 and 38 Bishopstone Road. As such, I am satisfied it would not harm the setting or significance of these listed buildings. Stable Cottage is recognised by both the appellant and the Council as being a non-designated heritage asset by virtue of its historic connection with Stone House, its age and aesthetic interest. The removal of the outbuildings to create the proposed driveway would increase the visibility of Stable Cottage from the field and the public footpath. However, this would only represent a slight improvement to the setting of Stable Cottage and how it is viewed from the rear. As such, this benefit attracts modest weight.
19. The scheme would add to the housing stock, would create construction employment and lead to additional support for local businesses and facilities. I attribute modest weight to these benefits as the development would create a single additional unit. Also, the proposed measures to enhance the biodiversity value of the site attract moderate weight.
20. I have found the development would be acceptable in terms of its effects on GCN's. However, the harm that would be caused in respect of the first 2 main issues means the proposal would be contrary to the development plan policies when read as a whole. The benefits of the scheme and other considerations are of insufficient weight to justify allowing the appeal contrary to the provisions of the development plan.

Conclusion

21. For the above reasons, I conclude that the appeal should be dismissed.

Jonathan Edwards

INSPECTOR