



Appeal Decision

Site visit made on 7 March 2023

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 March 2023

Appeal Ref: APP/J0405/W/22/3305937

Stugots, Stoke Lane, Great Brickhill, Buckinghamshire MK17 9AQ

- 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 and Mrs I Williams against the decision of Buckinghamshire Council - North Area (Aylesbury).
 - The application Ref 22/01673/APP, dated 6 May 2022, was refused by notice dated 1 July 2022.
 - The development proposed is the erection of a detached dwelling with associated earthworks, landscaping and parking.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues relevant to this appeal are:
 - the effect of the development upon the character and appearance of the surrounding area;
 - the effect of the development upon trees;
 - the effect of the development upon ecology; and
 - the effect of the development upon the setting of the Conservation Area

Reasons

Character and appearance

3. The appeal site consists of an undeveloped site within the countryside. The appeal site is next to an existing dwelling. However, the other boundaries of the appeal site adjoin undeveloped land. The appeal site is near to the settlement of Great Brickhill. The appeal site also adjoins a Public Right of Way.
4. The proposed development would result in an overall increase in the level of built form. This would comprise the proposed dwelling, in addition to a proposed garage and vehicle manoeuvring and parking areas. In consequence, the proposed development would result in a more urbanised appearance.
5. In addition, the development is likely to feature areas that would be used for car parking and also domestic paraphernalia within the gardens of the proposed dwelling. This would contribute to the generally more urban appearance of the proposed development.

6. Although the proposed development would not necessarily feature external lighting, the development would feature internal lighting that is likely to be apparent outside of the development and within the wider area. In consequence, the erosion of the existing rural character and the replacement with a more urban form is likely to be readily apparent in the surrounding area.
7. In addition, the proposed development would be readily perceptible from the wider area. This is due, in part, to the site's more open boundaries combined with the topography of the vicinity. In consequence, the incongruous form of development would be perceptible from several different vantage points in the surrounding area. This renders it a strident form of development.
8. In reaching this view, I have had regard to the fact that there would be views of the proposed development from the adjacent Public Right of Way. In result, the proposed development would be readily perceptible. This would conflict with the more rural surroundings and would render the proposed development incongruous.
9. Although the proposed development would be near to an existing dwelling, the prevailing character of the surroundings is of less developed land. Therefore, the creation of the dwelling would result in the erosion of this rural character, which amounts to harm.
10. The appeal proposal includes some landscaping. However, the level of mitigation offered by this would only be partial owing to the topography of the appeal site. In addition, it would take some time to become established. It therefore does not overcome my previous findings.
11. The appeal site contains some small structures. However, these have a footprint that would be less than the combined footprint within the proposed development. Therefore, their effects are notably smaller than the proposed development would have.
12. My attention has been drawn to a previously permitted development nearby. I do not have the full information regarding the planning circumstances of this development before me, which means that I can only give it a limited amount of weight.
13. Nonetheless, I note that the previously permitted development would be located in between two existing developments. Therefore, the character of the nearby site is markedly different from the scheme before me, as there are less dwellings directly neighbouring the appeal site.
14. In result, the proposed development would have differing effects on the character of the surrounding area. Therefore, a divergent approach in the consideration of the proposals is justified. In consequence, the previously approved development does not allow me to disregard my previous concerns.
15. I therefore conclude that the proposed development would have an adverse effect upon the character and appearance of the surrounding area. The development, in this regard, would conflict with the requirements of Policies S1, S2, S3, D4, BE2, NE4 and NE5 of the Vale of Aylesbury Local Plan (2021) (the Local Plan).
16. Amongst other matters, these seek to ensure that new developments give priority to the reuse of vacant or underused brownfield land; provide growth in

settlements; maintain the individual identity of villages; is located within the existing developed footprint of the village or is substantially enclosed by existing built development; compliment the physical characteristics of the site and its surroundings; minimise impact on visual amenity; and minimise light spill and potential glare.

Trees

17. The appeal site contains several mature trees. This is replicated on neighbouring plots of lands and, in unison, contribute to a more verdant and rural character. The proposal features, amongst other items, a vehicle manoeuvring area and a garage. The evidence before me is indicative that these elements would be in the root protection areas of some mature trees.
18. Therefore, the proposal is likely to result in a diminished ability for the trees to absorb sufficient moisture. This is due to a reduced likelihood for water to permeate through the ground owing to the overall increase in areas of hard standing. Therefore, the proposed development has the potential to have an adverse effect upon the health of these trees.
19. This would not be desirable as the surrounding area has a verdant character and the removal of mature trees would result in an adverse effect upon this character. This means that the development would result in harm.
20. The appeal site features some buildings that are near to the mature trees although these buildings are constructed with a wooden frame and have earth floors. In result, they are unlikely to have the same effects on the health of the trees as the proposed development would have. Therefore, the presence of existing buildings does not allow me to disregard my previous concerns.
21. I acknowledge that the planning application was accompanied by a survey into the effects of developments upon trees. However, this survey does not include a strategy to ensure that the developments would not impinge on the overall health of the trees following the completion of the development. In result it does not overcome my previous concerns, even though the submitted survey details how the trees could be protected during the construction process
22. It has been suggested that, if I reminded to allow the appeal, I could impose a condition requiring the submission and agreement of a strategy to mitigate against any adverse effects on the health of the trees.
23. Although I have had regard to this suggestion, I am mindful that without certainty regarding the extent of any adverse effects on these trees, it is not possible to adequately establish whether any mitigation would be required or, if so, the extent and typology of it.
24. This means that it would not be possible to construct a condition with sufficient precision in order to meet the statutory test in respect of that matter. Therefore, the possibility of imposing such condition does not overcome my previous concerns.
25. I therefore conclude that the proposed development would have an adverse effect upon trees. The development, in this regard, would conflict with the requirements of Local Plan Policy NE8. Amongst other matters, this seeks to ensure that new developments should not result in the unacceptable loss of, or damage to, or threaten the continued well-being of any trees.

Ecology

26. The appeal site consists of an undeveloped area of land adjacent to other similarly undeveloped plots of land. The appeal site is in the countryside.
27. By reason of the nature of the proposed development, there would be an increase in the overall level of built form. This would also mean that there would be a reduction in the level of open space. In result, there is a likelihood that the development would result in a diminished level of foraging grounds for wildlife.
28. This poses a concern given that there are indications that Great Crested Newts are present within the wider area. In result, the overall reduction in more verdant open areas of land means that the development has the potential to affect the overall health and sustainability of this protected species.
29. On my site visit, I noted that there were ditches near to the side boundaries of the appeal site. These contained some water. Therefore, it appears that there is a habitat near to the appeal site that could potentially support a population of Great Crested Newts. The submitted plans also show a pond on a neighbouring property. In consequence, the absence of a survey into the presence of Great Crested Newts is particularly concerning.
30. I have considered whether it is possible to impose a condition to secure appropriate mitigation. However, without certainty regarding the level of activity it is not possible to adequately establish the overall level that might be required. In result, the possibility of such a condition would not address my previous concerns.
31. It has also been suggested that a financial contribution could be made to overcome any adverse effect on Great Crested Newts. However, without knowledge regarding the extent of the presence of this species, it is not possible to categorically conclude the level of such a contribution. Furthermore, it would not be possible to impose a condition requiring the payment of a financial contribution and there is no completed legal agreement before me. Therefore, this suggestion would not provide appropriate mitigation.
32. My attention has been drawn to the approval of a dwelling on a nearby site. Although I understand that this permission was not subject to a condition requiring the investigation of the presence of Great Crested Newts. I note that the appeal site is separated from the previously consented development by a road.
33. In addition, the details before me are not indicative of whether the nearby site was also adjacent to ditches in the way that the appeal site is. Therefore, there is the potential for the appeal site before me to have differing effects on this protected species than the previously permitted scheme.
34. In result, the presence of the road may well determine the movement of such newts into the previously permitted site. Therefore, owing to these differences, there is a potential that the overall sensitivity of Great Crested Newts on the varying sites could be different. Therefore, I do not believe that the presence of the previously permitted scheme allows me to disregard my concerns.
35. I therefore conclude that the proposed development would have an adverse effect on ecology. The development would therefore conflict with the

requirements of Local Plan Policy NE1. Amongst other matters, this seeks to ensure that if significant harm to biodiversity cannot be avoided it should be adequately mitigated, or as a last resort, compensated.

Effect on the Conservation Area

36. The appeal site is near to the boundaries of the Great Brickhill Conservation Area (the CA). For the purposes of this appeal, the significance of the CA is, in part, derived from the presence of traditionally designed buildings surrounded by open countryside. This ensures that the CA has the character of a rural settlement. In consequence, the setting of the CA contributes to its overall significance.
37. In addition, the CA is predominantly focused upon a central nucleus. However, the part of the CA nearest the appeal site is more linear in nature, with dwellings constructed to differing designs. The proposed development would therefore reflect this character of varying built form owing to the nature of the proposed dwelling, when compared to the differing designs of neighbouring houses.
38. The proposed development, when viewed from the CA would not appear to be particularly prominent given the general limited scope of views from the highway. In addition, the proposed dwelling would be located part of the way down the slope within the appeal site and would be recessed into the hillside. This would mean that the proposed development would not be readily viewable from the CA.
39. From the road, views of the appeal site, and particularly the proposed dwelling would be made at an oblique angle. This means that the views of the proposed development, including the areas of hardstanding, would be relatively limited in nature. Therefore, although the proposed development would result in an erosion of the site's verdant character, it would not conflict with the historical significance of the CA.
40. The proposed development includes the provision of an outbuilding, which would be utilised as a garage. This is constructed to a more functional design. The appeal site currently features a small building in a comparable position to this element of the proposed development.
41. Therefore, given that the proposed garage, which would be constructed to a more functional style of architecture, would replace a similarly designed functional building, the overall change to the CA would be relatively small. This means that the presence of this structure would not erode the setting of the CA.
42. I therefore conclude that the proposed development would not have an adverse effect upon the setting of the CA. The development, in this regard, would comply with the requirements of Local Plan Policy BE1. Amongst other matters, this seeks to ensure that developments do not cause harm to, or which better reveal the significance of heritage assets.

Other Matters

43. The proposed development is unlikely to have an adverse effect upon flood risk and would involve the use of lower quality agricultural land. Although these are matters of note, they are some of the issues that must be considered. They

therefore do not overcome, or outweigh, my findings in respect of the main issues.

Conclusion

44. Although the proposed development would not result in an adverse effect upon the setting of the CA, this is outweighed by the adverse effect upon the character and appearance of the surrounding area, ecology and trees. The scheme would therefore conflict with the development plan taken as a whole. There are no material considerations, including the Framework, which indicate the decision should be made other than in accordance with the development plan. Therefore, for the preceding reasons, I conclude that the appeal should be dismissed.

Benjamin Clarke

INSPECTOR