



Appeal Decision

Site visit made on 6 December 2022

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 May 2023

Appeal Ref: APP/J0405/W/22/3296752

West View, Westfield Road, Long Crendon, HP18 9EG

- 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 W E Black Ltd against the decision of Buckinghamshire Council - North Area (Aylesbury).
- The application Ref 21/04873/APP, dated 16 December 2021, was refused by notice dated 16 February 2022.
- The development proposed is the erection of 4no. detached houses.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Whilst the changes shown on some amended plans submitted with the appeal are not individually extensive, taken together they do represent a noticeable departure from the scheme that the Council considered and that on which the views of third parties were sought. I have some concerns therefore that accepting the amended plans would result in some prejudice to third parties wishing to comment. Having regard to the procedure guide¹, planning appeals should not be used to amend a scheme and any plans submitted should be those that the Council considered at the time they determined the planning application. I have not therefore taken the amended plans into account in making my decision.

Main Issues

3. The main issue are the effect of the proposed development on a) the character and appearance of the area with specific regard to the setting of listed buildings and the Long Crendon Conservation Area (CA); b) biodiversity; c) the living conditions of neighbouring occupiers; d) surface water drainage; e) housing mix; and f) affordable housing provision.

Reasons

Character and Appearance

4. The appeal site forms an area of vacant land which was previously associated with West View. It is laid to grass, has the appearance of agricultural land and is located at the north-western end of Long Crendon and in close proximity to, but outside, the CA. It also lies close to 78 Bicester Road, a Grade II listed building.

¹ The Planning Inspectorate Procedural Guide – Planning Appeals – England (March 2021)

5. The area is predominantly residential characterised by single and two-storey dwellings. The properties vary considerably in their individual design characteristics and form; with smaller more historic dwellings located towards the centre of the village and larger properties located further away from the centre. The road has a pleasant green environment, being lined with mature hedgerows and grass. The street scene is defined by properties being set back from the road behind front gardens and parking areas which contributes positively to a pleasant spacious and consistent feel.
6. The proposal would introduce a garage forward of the proposed dwelling at Plot 1. The garage, being closer to the highway than the existing and proposed development, would diminish the spacious characteristic of the area. It would be visible from the surrounding roads and pavements and would be a prominent feature. The appellant has referred to West View having a garage to its front, however, this property, due to the location of its access, reads as fronting on to Westfield Road. As such, its garage appears to its side, in line with the existing dwelling.
7. The CA is split in to two sections with the appeal site located close to the Bicester Road section. The Aylesbury Vale District Council Long Crendon Conservation Areas (2009) identifies further distinct character areas, the appeal being in close proximity to the Lower End identity area. Significance is derived from its historical interest namely the grouping of buildings around a central green, sense of enclosure and the historic buildings which date back to the 15th century. The appeal site forms an important area of verdant open space providing a visually attractive transition from the built development of Long Crendon to the open countryside beyond.
8. Whilst the proposed dwellings would be two storeys, they would have large roofs extending to a substantial height. West View, is a single storey dwelling and recently constructed dwellings opposite the site are two-storey and, according to the appellants submission, much lower than the proposals. There would therefore be some visual discordancy.
9. I do not dispute that elements of the proposal, in particular the retention of sections of the existing hedgerow and landscape planting, would lessen the visual effect of the proposed building development. However, when viewed from adjoining roads and also nearby vantage points, in particular when travelling out of Long Crendon along Bicester Road, the full extent of the overall height and consequential substantial scale and bulk of the proposed development above neighbouring properties would be very obvious and dominant. This dominance and substance of the additional built form would erode the pleasant qualities of the appeal site and it's bridging nature between the settlement and the countryside.
10. The proposed development would located at the entrance to the CA, and sitting in key views in to the CA when travelling along Bicester Road and Westfield Road. Due to its scale, height and bulk, which is at odds with nearby existing smaller scale development, the proposed development would appear as a dominant feature within these views having a harmful impact on the setting of the CA.
11. No 78 Bicester Road is a Grade II listed building, the significance of which is derived from its architectural features and historical connection with Long Crendon and the agricultural land to its north. This building is located to the

north-east of the appeal site and whilst it is relatively close to the proposed development due to the topography of the area, the set back of the listed building, and existing mature landscaping proposed development would not be intervisible with it. The appeal site would not be located within the listed buildings associated agricultural land and would not sit within any key views. As such, the proposed development would have a neutral impact on the listed building and would not harm the significance of this asset.

12. The harm identified would be localised and therefore the impact on the CA as a whole would be less than substantial within the meaning of paragraph 202 of the National Planning Policy Framework 2021 (the Framework). In weighing the public benefits of the proposal against the harm identified, the appellant has suggested that the proposal is a high-quality development. I have already found harm with regard to its design. As such, the public benefits of the scheme are of no more than limited weight. I find in relation to paragraph 202 of the Framework that whilst the harm to the significance of the CA would be less than substantial, there are no public benefits that would be sufficient to outweigh it.
13. The proposal would therefore, for the this and the above reasons, conflict with Policies BE1 and BE2 of the Vale of Aylesbury Local Plan (2021) (VALP) and Policies LC1 and LC9 of the Long Crendon Neighbourhood Plan (2017) (LCNP) which seek, amongst other things, to ensure that development reflects the character and scale of the surrounding buildings and contributes to heritage values and local distinctiveness. The appeal scheme would also be contrary to paragraphs 130 and 199 of the Framework which seek developments that are sympathetic to local character and to protect heritage assets.

Biodiversity

14. Whilst no survey was included with the planning application an Ecological Report has been submitted with the appeal which identifies that whilst there are no badger setts on the site, features which indicate that badgers are present on site, such as latrines, dung pits and mammal runs were found.
15. Standing advice by Natural England² explains that where it is not possible to avoid effects on badgers, mitigation or compensation measures will need to be included in the proposal. Given the extent of features of badger activity on site, I consider that the additional surveys including mitigation measures are necessary in order to establish the likely effects of the proposal on badgers. Whilst I note some guidance has been provided within the Ecological Report, without further surveys to assess the extent of the potential impact I am not convinced that these would represent adequate mitigation.
16. Circular 06/2005³ states that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by development, is established before planning permission is granted. On the basis of the evidence before me, I do not consider that it would be appropriate to condition the undertaking of further survey work. A condition to require mitigation in the absence of further surveying would also not be appropriate as there can be no certainty that the mitigation would acceptably address any harm to badgers.

² Badgers: advice for making planning decisions (2022)

³ Biodiversity and geological conservation: circular 06/2005

17. Consequently, I am not satisfied that sufficient evidence has been provided in order to ascertain the effects of the proposed development on badgers.
18. VALP Policy NE1, requires a biodiversity net gain to be sought on all minor and major developments. Paragraph 174 of the Framework requires that developments contribute to and enhance the local environment. Planning Practice Guidance (PPG)⁴ defines biodiversity net gain as measurable improvements for biodiversity by creating or enhancing habitats in association with development. Biodiversity gain can be achieved on-site, off-site or through a combination of on-site or off-site measures.
19. The appeal submission provides a Technical Note: Biodiversity Net Gain which details an overall loss of 1.75 habitat units, which equates to an 86% loss, but an overall gain of 0.02 hedgerow units, which equates to a 60.85% gain. The Technical Note concludes that overall, there would be a net loss of biodiversity and that an off-site contribution would be required. The appellants submission notes that an off-site contribution of approximately £21,000 would be required. Whilst the appellant has suggested that this could be conditioned, due to it being an off-site contribution on land outside the appellants ownership then this would need to be secured via a planning obligation. No such Agreement has been submitted with the appeal and I have no information regarding where or how the contribution would be used.
20. On the evidence before me, it appears that the need for the contribution arises from the development. The proposal would fail to secure appropriate financial contributions towards the provision of biodiversity net gain and so would be in conflict with VALP Policy NE1.
21. The proposal therefore fails to demonstrate that its effects on the biodiversity of the site and the surrounding area would be acceptable. The proposed development would be contrary to VALP Policy NE1 which seeks, amongst other things, to ensure that developments protect and enhance biodiversity. The proposal would also be contrary to Paragraph 180 of the Framework which seek to ensure that proposals conserve and enhance biodiversity.

Living Conditions

22. At present West View adjoins an area of land that is agricultural in character. The proposed development would introduce four dwellings to its west. The closest proposed dwelling, Plot 4, would be located approximately five metres from the side elevation of West View which contains a number of windows. Landscaping in the form of native tree and hedgerow planting would be located between West View and Plot 4.
23. The location of the proposed dwelling close to the side elevation and windows of West View combined with its height and depth could potentially have a detrimental overbearing effect on the outlook from these windows. However, with regards to habitable rooms, these windows are to rooms where a number of windows serve them. As such, whilst there would be some impact on the outlook from these windows, this would be reduced due to other windows serving these rooms. A ground floor bedroom is the only room that has a single window, and whilst this would look towards Plot 4, it would be located forward of the proposed dwelling and would look towards its proposed front garden.

⁴ Paragraph 022, Reference ID: 8-022-20190721

24. There would be a change in the outlook from the side windows of West View from open agricultural field to a landscaped boundary with development beyond. However, the landscaping would screen the development ensuring that the proposal would not have an overbearing impact on the outlook from these windows.
25. The proposed development would not therefore have a harmful effect on the living conditions of the residents of West View. The proposal would therefore comply with VALP Policy BE3 and LCNP Policy LC9, which seek, amongst other things, to ensure that development does not unreasonably harm any aspect of amenity of existing residents. The proposed development would also comply with paragraph 130 of the Framework that seeks high standards of amenity for existing users.

Surface Water Drainage

26. As part of the appeal submission both the appellant and Council have provided further information and correspondence regarding this matter. The appellant proposes to use a borehole for drainage due to the land being unsuitable for soakaways and no watercourse or drain connection being located in close proximity to the site.
27. The appellant has provided evidence and reasoning for utilising a borehole and whilst some detailed information has not been provided with the submission, this could be conditioned, were I minded to allow the appeal. However, as I am dismissing the appeal on other issues, I have not pursued this matter further.
28. The proposed development would not be detrimental to surface water drainage. Accordingly, I find no conflict with VALP Policy I4 which seeks, amongst other things, to ensure that highway safety is not compromised. The proposal also complies with paragraph 167 of the Framework which seeks to ensure that development includes appropriate surface water management measures.

Housing Mix

29. VALP Policy H6a requires a mix of homes to be delivered in new residential development, having regard to the Council's latest evidence. The Council's Housing and Economic Development Needs Assessment (HEDNA), outlines that the greatest need is for three-bedroom properties as 52% followed by four-bedroom properties at 21%.
30. The proposed development comprises four four-bedroom detached dwellings. The HEDNA notes that, whilst not the greatest need, there is still a need for four-bedroom properties. The appellant has undertaken their own research and notes that a variety property sizes have been recently approved and constructed in Long Crendon.
31. As the Council have provided information demonstrating a need for four-bedroom properties, and no evidence has been provided to suggest these figures are incorrect, I consider that the housing mix meets a current identified need and would therefore be appropriate. The proposed development would not thus be detrimental to the housing mix in the area. It would therefore comply with VALP Policy H6a and LCNP Policy LC2 which seek, amongst other things, to ensure that residential developments provide a mix of homes to meet current and expected future requirements.

Affordable Housing

32. VALP Policy H1 states that residential development of 11 or more dwellings gross or sites of 0.3 hectares or more will be required to provide a minimum of 25% affordable homes on site. Paragraph 64 of the Framework states that the provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas, where policies may set a lower threshold of 5 units or fewer.
33. The appeal proposal is for four dwellings, however there is some dispute regarding the calculations regarding the site area with the appellant stating 0.29 hectares and the Council stating either 0.298 or 0.3 hectares depending on where the measurement are taken. I note that the appeal site and the neighbouring dwelling, West View, are included within the LCNP as an allocated housing site for 8 dwellings and the policy justification notes that there would be no affordable housing contribution as they fall below the threshold set by the Framework. I also note that smaller dwellings could be provided on the remainder of the site.
34. As the difference in measurement between the main parties with regard to the appeal site is minimal, if I were to take the Council's measurements into account, it would only just (almost diminutively) meet the site area required to trigger affordable housing. I am mindful that the Framework does not require an affordable housing contribution on this number of dwellings and no affordable housing contribution was envisaged from this site through its allocation in the LCNP.
35. As such, I consider that the site, being four dwellings, should not provide an affordable housing contribution. As such it would be in accordance with VALP Policy H1 and paragraph 64 of the Framework which only seek affordable housing contribution on major developments.

Other Matters

36. The appellant suggests that, whilst the Council can demonstrate 5.2 years of housing land supply, the proposed development would provide additional dwellings. The submission details that the Council can demonstrate adequate supply of housing land, however if it could not, I would be taken to paragraph 11 of the Framework. Paragraph 11 (d) (i) states that permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Footnote 7 lists harm to CA's as a reason to refuse permission. Consequently, as I have found harm in relation to the CA Paragraph 11 (d) does not apply.

Conclusion

37. For the above reasons, there are no relevant material considerations, including the approach of the Framework and worthy of sufficient weight, which would indicate a decision otherwise in accordance with the development plan. It is for this reason that the appeal should be dismissed.

Tamsin Law

INSPECTOR