



Appeal Decision

Site visit made on 25 September 2023

by A Owen MA BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd October 2023

Appeal Ref: APP/J0405/W/23/3316759

Nicholls Wood Farm, Winslow Road, Nash, Buckinghamshire, MK17 0EJ

- 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 Adrian Cook against the decision of Buckinghamshire Council - North Area (Aylesbury).
 - The application Ref 22/02260/APP, dated 20 June 2022, was refused by notice dated 6 January 2023.
 - The development proposed is demolition of existing block building, use existing access point, erection of three detached low level dwellings with car barns.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the determination of the appeal the Council advised that they now have a 4.5 years supply of housing land, whereas at the time of making their decision on the application, they had a 5.2 years supply. The appellant has been given an opportunity to comment on this and I have taken their response, and the Council's revised figure, into account.

Main Issues

3. The main issues are:
 - the effect of the proposal on the character and appearance of the area including the settings of the Nash Conservation Area (NCA) and the listed building at Weir Cottage;
 - whether there is a need for the development to make a contribution to affordable housing and if so whether there is a suitable mechanism to secure that; and
 - the effect on flood risk.

Reasons

Character and appearance

4. The appeal site is mostly grassed but also accommodates an L-shaped stable block and a small area of hardstanding at its centre. The site is largely screened from Winslow Road by a mature hedgerow, but there is a wide gap between the hedge and Weir Cottage; the adjacent dwelling to the north west. When seen through this gap, the site appears as an open paddock, despite the presence of the stables, rising towards its rear.

5. The open appearance and rural character of the site contrasts with the built form of the cluster of dwellings, including Weir Cottage, which neighbour the site to the north and east. To the south there is another small paddock, behind which is a farm complex including a dwelling and other farm buildings. The presence of this adjacent paddock results in the site not appearing as an infill site, and with the farm buildings, adds to the rural character of this side of Winslow Road.
6. Policies S2 and S3 of the Vale of Aylesbury Local Plan set out the Council's spatial strategy and state that housing in smaller villages, such as Nash, will come forward through the neighbourhood plan or as windfall development. The Nash Neighbourhood Plan (NNP), which the Council advise was made in November 2022, does not allocate specific sites but provides a strategy for windfall development and defines the settlement boundary of Nash. The appeal site is outside this boundary. Policy NNP1 of the Nash Neighbourhood Plan sets out the forms of development that would be considered appropriate beyond the settlement boundaries. The proposed development of three houses would not fit into any of the categories. The NNP states that infill development may be possible and that small scale residential schemes can be supported, however this applies to development within the settlement boundary. The proposal would therefore conflict with these policies.
7. Overall, the site is beyond both the identified settlement boundary, and the built extent of the village as perceived 'on the ground'. Its development would therefore contrast with the prevailing pattern of development.
8. The NCA comprises a number of separate portions but is tightly drawn around most of the historic buildings in the village. As a small rural settlement, its countryside setting plays an important part in the significance of the NCA.
9. The dwellings would be set well apart in spacious plots and so would be low density reflecting their surroundings, and the development would incorporate a substantial open space in the north-east corner of the site. Nonetheless, despite their single storey form, the dwellings would have considerable scale creating a horizontal emphasis. The development in combination with its position on the higher part of the site, would result in built form sprawling across the site dominating the view when seen from Winslow Road alongside Weir Cottage. The loss of the open and rural character and appearance of the site would disrupt the setting of the NCA and so would harm its significance.
10. Although the detailed design of the dwellings would not closely reflect nearby houses, this aspect alone would not render the dwellings incongruous because of their separation from those properties, and the range of designs in those neighbouring houses which include detached bungalows.
11. Weir Cottage is a detached 17th century, Grade II listed building with a mix of brick and render walls and a distinctive thatched roof. Its historic appearance is its main significance, but its spacious setting provided by its separation from other buildings, with all four boundaries facing either open land or roads, contributes to that significance. The proposal would maintain an open area close to Weir Cottage, roughly of equal size to the plot of the listed building hence maintaining its spacious setting. The proposal would appear in some longer distance views of Weir Cottage, and indeed could obscure views from some positions on the public footpath which follows the western boundary of the appeal site. Nonetheless, as the spaciousness of the listed building's setting

would be maintained, the significance of this heritage asset would be preserved.

12. Notwithstanding this, the development would cause harm to the significance of the NCA, albeit that would be less than substantial. Weighed against that are the benefits of the scheme. The benefit of additional dwellings to the Council's supply of housing at a time when they are unable to demonstrate a five year supply would be modest given the limited quantum of development and the limited shortfall against the required supply. Similarly as the proposal is for just three units, the benefit in economic or social terms to the local community would be limited. Indeed there are few facilities in Nash which could receive a benefit, and facilities in other nearby villages may not be as attractive to future residents as the wider range of facilities in larger towns such as Milton Keynes, which is not far away. The development of the site would allow for more formalised landscaping, but currently the site is not unattractive and so any advantages in this regard would be minimal. It is recognised that, as a small site, it could be built out relatively quickly and as they would be bungalows, could be fully accessible, which is a modest benefit. Nonetheless, overall, it is considered that the benefits would not outweigh the harm to the significance of the heritage asset.
13. In summary, the proposal would conflict with Local Plan policies S2 and S3 as set out above, in addition to NNP policy NNP1. It would also fail to accord with Local Plan policies NE4, which aims to protect the landscape, and BE2, which requires development to have regard to the context of the site. It would also contrast with Local Plan policy BE1 which states that development should conserve all heritage assets including their setting. However I find no conflict with Local Plan policy BE4 which seeks to secure densities of development appropriate to their surroundings. Also as Local Plan policy D4 relates to development in villages that have no neighbourhood plan, it is irrelevant.

Affordable housing

14. Paragraph 64 of the National Planning Policy Framework (the 'Framework') advises that affordable housing should not be sought for developments that are not major developments. Major developments are defined in Annexe 2 of the Framework as being developments on sites of 0.5ha or more. The site, at 0.78ha, exceeds this threshold, and the local threshold of 0.3ha, so should be required to provide affordable housing. Local Plan policy H1 advises that where the threshold is exceeded, 25% of the development should be affordable.
15. No undertaking has been provided which would either ensure one of the units was affordable, or that a contribution would be made for affordable housing to be provided off-site. The appellant had demonstrated a willingness to provide such an undertaking, but none has been provided. As such I can only conclude that the proposal before me fails to provide affordable housing as set out in Policy H1 and therefore conflicts with that policy.

Flood risk

16. The parties agree the site is within flood zone one so is at low risk of surface water flooding. The introduction of three dwellings, associated hardstanding and the access would represent a significant increase over and above the limited hardstanding area currently on site. Even if the vehicle manoeuvring areas were constructed of permeable materials, surface water run-off from the

footprint of the dwellings and garages would need to be accounted for. The part of the site most susceptible to surface water flooding would be the low north east corner away from the proposed dwellings. There is a significant amount of open space here, and elsewhere across the site, to provide mitigation to ensure run off is managed such that the site and surrounding land would be at no greater risk of flooding. Such mitigation could be appropriately secured by a planning condition were planning permission granted. As such the proposal would accord with Local Plan policy I4 which generally aims to minimise the impacts from all forms of flooding.

Other Matters

17. The Council's failure to demonstrate a five year supply of housing land means that paragraph 11 d) of the Framework applies. This says that, in such circumstances, the most important development plan policies relating to the proposal are out of date and so planning permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the proposal.
18. In this case the proposal would cause less than substantial harm to the NCA. Paragraph 199 of the Framework says great weight should be given to the conservation of heritage assets. Therefore even though development plan policies are out of date and the proposal's conflict with them could be given limited weight, the application of paragraph 199 gives a strong reason for refusing the development. The presumption in favour of sustainable development does not apply. The proposal would also therefore conflict with Local Plan policy S1 which says that development must comply with the sustainable development principles set out in the Framework.

Conclusion

19. The development would harm the character of the area and the significance of the NCA and would fail to provide affordable housing. The ability to mitigate flood risk through a planning condition does not outweigh those harms.
20. As such having had regard to the development plan as a whole, and taking account of all other considerations including the provisions of the Framework, the appeal is dismissed.

A Owen

INSPECTOR