



Appeal Decision

Site visit made on 4 December 2023

by C Carpenter BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd February 2024

Appeal Ref: APP/J0405/W/23/3314745

Land South Of Stratford Road, Buckingham, Buckinghamshire MK18 7AT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr and Mrs German and Marcela Arias Tarocco against Buckinghamshire Council - North Area (Aylesbury).
 - The application Ref 22/01895/APP is dated 23 May 2022.
 - The development proposed was originally described as "This is the proposal for a new self-build dwelling on a windfall land created as a result of recent subdivision and development (17/03386/APP) of Land at 1 Wharf Hill Cottages. Originally presented (and subsequently withdrawn) as an application for a dwelling for five people 18/04595/APP, we are now re-applying, adhering to the advice and recommendations of Planning Department of AVDC, Mr. M. Davey (telephone conversation) along with the preapplication advice provided by Mrs. Nash in her 19/01457/PREMTG notes. A small street-level, single-story, pavilion-style house for two people, the retirement house for my wife and myself not far from where our children live, where there was a previous use of a radiotaxi base (70's) now there is a derelict timber gate, fencing and dense bush (Proposeing a brownfield development). See companion LR17-Planning Statement, for more details."
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Decision

1. The appeal is dismissed and planning permission for a new self-build dwelling is refused.

Preliminary Matters

2. I have taken the site address from the appeal form as it was not included in the site address details section of the original planning application. I have simplified the description in my decision above for clarity and to remove words which are not acts of development.
3. The National Planning Policy Framework (the Framework) was updated in December 2023, during the course of this appeal. I invited the parties to consider whether the revised Framework had relevance to this appeal and have taken account of the comments received in my decision.
4. The appeal was made on the basis of the Council's failure to determine the planning application within the statutory timescale. The Council has provided a statement explaining the reasons why it would have refused planning permission had it been able to do so. I have had regard to the Council's statement in framing the main issues.

Main Issues

5. The main issues are:

- the effect of the proposal on the character and appearance of the surrounding area, including trees and hedgerows;
- whether the proposal would be in a suitable location with respect to the settlement pattern;
- whether the proposal would provide adequate living conditions for future occupiers, with particular respect to internal space, outlook, external amenity space, storage for refuse/recycling and access for the disabled;
- the effect of the proposal on highway safety;
- the effect of the proposal on biodiversity;
- the effect of the proposal on the living conditions of neighbouring occupiers, with particular respect to outlook and privacy.

Reasons

Character and appearance

6. The appeal site is a small triangular plot accessed from Stratford Road (the A422) via an existing double gate and crossover. Behind it are an area of open space and the rear gardens of a row of houses. Immediately adjacent to the appeal site, at a lower level, is a cluster of cottages. The wider neighbourhood comprises other residential streets and cul-de-sacs on both sides of Stratford Road. The dwellings in these streets are generally of a modest size. There are well-established trees and planting around the site, linking it visually to a ribbon of green space on either side of the A road. This verdant corridor contributes to the character and appearance of the surrounding area.
7. Policy NE8 of the Vale of Aylesbury Local Plan 2021 (VALP) requires a full tree survey and arboricultural impact assessment where trees within or adjacent to a site could be affected. No such assessment is before me. Consequently, in the absence of evidence to the contrary, I find there is a risk the development would harm existing trees and hedgerows around the site. Such harm would be detrimental to the verdant corridor along Stratford Road, which would in turn harm the character and appearance of the surrounding area.
8. The dwelling's single storey front elevation would be largely screened by the new front wall, which would replace the existing timber fence and gate. Although the wall would be more prominent than the foliage-covered fence, its extent would be modest relative to the length of Stratford Road and its materials could be controlled by condition were the appeal to be allowed, to aid integration. I recognise that the appearance of the new gate would be an improvement over that of the existing one, which is old. The other two elevations of the bungalow would also be largely screened by boundary treatments. Consequently, the appearance of the proposed development would not dominate the street scene or look unduly out of place in its context.
9. The proposed bungalow would not be substantially different in size and form from the cottages and smaller houses in the neighbourhood, despite its higher

level. Although its immediate neighbours are sited at an angle to or facing away from Stratford Road, there are other dwellings fronting onto that road only a short distance away. The existing access to the site would not change and there are other vehicular and pedestrian accesses from the A422 in the immediate vicinity. The new dwelling would also be set back behind a grassy verge. Overall, therefore, the bungalow's form and siting would not have a materially detrimental effect on the character and appearance of the surrounding area.

10. In summary, although I have found no harm from the appearance, form or siting of the proposed bungalow, I have found a risk of harm to existing trees and hedgerows around the site, which would have a detrimental effect on the character and appearance of the area.
11. I therefore conclude the proposal would be likely to have a harmful effect on the character and appearance of the surrounding area, including trees and hedgerows. This is contrary to Policies BE2, NE4 and NE8 of the VALP and Policy DHE1 of the Buckingham Neighbourhood Development Plan 2015 (BNDP). Together, these Policies require development to respect the context of the site, its surroundings and the character of the locality and landscape; resist the unacceptable loss of trees and hedgerows that make an important contribution to the character of the area; and seek replacement tree planting to retain current landscape character.
12. It is also contrary to the Framework and National Design Guide (NDG), which recognise that trees make an important contribution to the character of urban environments and seek the retention of existing trees wherever possible.

Settlement pattern

13. Policy S1 of the VALP sets out over-arching principles for development in Aylesbury Vale. These include giving priority to the reuse of vacant or underused brownfield land. Policies S2 and S3 of the VALP identify Buckingham as a strategic settlement for the purposes of housing growth. Policy D3.1 of the VALP restricts development proposals on sites in strategic settlements not allocated in the plan to small-scale areas of land within the built-up areas of settlements. Such development is required either to infill small gaps in developed frontages or to consolidate existing settlement patterns without harming important settlement characteristics.
14. Policy HP7 of the BNDP supports developments of 10 dwellings or less on small sites, including previously developed land (PDL), within the settlement boundary.
15. The appeal site is within the strategic settlement of Buckingham but is not the subject of an allocation in the development plan. Whether or not the site falls within the Framework's definition of PDL, the relevant Policies in the development plan referred to above do not preclude the development of one dwelling on other types of small site within the settlement boundary. However, this is subject to the criteria in Policy D3.1 of the VALP.
16. Having regard to my characterisation of the area set out above, I find that the proposal would not amount to the infilling of a gap in a developed frontage. In addition, the harm I have found to the character and appearance of the surrounding area means the development would harm important settlement

characteristics. Consequently, notwithstanding the small scale of the proposal, neither of the two requirements in Policy D3.1 of the VALP would be satisfied.

17. For the above reasons, I conclude the proposal would not be in a suitable location with respect to the settlement pattern. Therefore, it would be contrary to Policy D3 of the VALP. Nor would the proposal accord with the broad aims of Policies S1, S2 and S3 of the VALP. It would also be contrary to paragraph 70 of the Framework which, although it supports the provision of homes in existing settlements on small and windfall sites, requires the sites to be suitable.

Living conditions for future occupiers

18. The internal floor area of the proposed dwelling would be very small for two people, with the useable area further reduced by the acute-angled corners of the triangular home and by internal doorways. There would be limited storage and space for circulation around furniture would be constrained. In addition, on the evidence before me, the gross internal floor area would fall well below the minimum for a dwelling of this type recommended in the Nationally Described Space Standards guidance document. Taking these factors together, I find the internal space of the proposed dwelling would not be adequate.
19. The two windows in the bedroom would offer little outlook as one would be high to protect the privacy of neighbours and the other would be very close to the dense vegetation at the rear of the dwelling. Even if there were extensive glazing on the front elevation of the bungalow, this would provide a restricted outlook from the living and kitchen areas given the proximity of the front boundary wall and the dominance of the car parking/manoeuvring area. Overall, therefore, the outlook for future occupiers would not be adequate.
20. The area of useable external space would be very limited once corners, the kitchen door, vehicle circulation space, vegetation and external storage are taken into account. It would also be narrow, confined between the walls of the house and boundaries of the site, and poorly orientated for sun. As a result, the outside space would not be sufficient for the usual activities undertaken by a small residential household, such as sitting out or hanging washing.
21. Policy S5 of the VALP requires development proposals to provide sufficient bin storage. There is little before me to show where refuse/recycling bins would be stored on the site. Consequently, I am not satisfied the requirements of Policy S5 would be met.
22. Policy H6c of the VALP requires development to meet at least category 2 accessible and adaptable dwellings standards, unless it has been demonstrated it is unviable to do so. The limited evidence before me does not demonstrate either that the standard would be met or that it would be unviable. I am therefore not satisfied the requirements of Policy H6c would be met.
23. For the above reasons, I conclude the proposal would not provide adequate living conditions for future occupiers, with particular respect to internal space, outlook, external amenity space, storage for refuse/recycling and access for the disabled. This is contrary to Policy BE3 of the VALP and Policy DHE6 of the BNDP, which together require a satisfactory level of amenity for future residents and provision of good quality private outdoor space. It is also contrary to Policies S5 and H6c of the VALP. It is also contrary to the

Framework and NDG, which seek accessible places and a high standard of amenity for future users.

Highway safety

24. There is little evidence to demonstrate either that the space for parking would be large enough, or that access to and from Stratford Road could be safely achieved. In the absence of such evidence, I find there would be a risk to the safety of road users from over-spill parking and/or cars having to move onto the highway verge or reverse during ingress or egress.
25. I therefore conclude the proposal would be likely to have a harmful effect on highway safety. This is contrary to Policies T1 and T6 of the VALP, which seek to improve the safety of all road users and set minimum standards for parking. It is also contrary to the Framework, which states development should be refused on highways grounds if there would be an unacceptable impact on highway safety.

Biodiversity

26. The Council's fourth putative reason for refusal, relating to biodiversity, refers to Policy DHE3 of the BNDP. However, it is clear elsewhere in the Council's statement that Policies DHE2 and DHE5 of the BNDP are most relevant to this main issue. I have therefore referred to Policies DHE2 and DHE5 of the BNDP as well as Policy NE1 of the VALP in my consideration of this issue. These Policies require adequate mitigation or compensation if significant harm to biodiversity cannot be avoided and seek biodiversity net gain.
27. Given the small size of the site, the development would be likely to result in damage to existing planting and associated wildlife habitats on and around it. Therefore, there is a risk of harm to biodiversity, for which mitigation and/or compensation would be required. In addition, to achieve a net gain in biodiversity, further native planting would be needed to link to existing semi-natural habitats and thereby improve habitat connectivity for wildlife. Details of proposed mitigation/compensation and enhancement measures would need to be approved before the start of development to provide certainty that they would be adequate.
28. A pre-commencement condition would therefore be necessary, were the appeal to be allowed, to secure approval of these details as well as their subsequent implementation and retention. The appellant's express agreement to a pre-commencement condition is required and no such agreement is before me. Consequently, as I cannot be certain adequate mitigation/compensation and enhancement could be secured, there would be a risk of harm to biodiversity.
29. I therefore conclude the proposal would be likely to have a harmful effect on biodiversity. This is contrary to Policy NE1 of the VALP and Policies DHE2 and DHE5 of the BNDP. It is also contrary to the Framework, which states planning permission should be refused if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated or compensated for.

Living conditions of neighbouring occupiers

30. The new dwelling would adjoin Apple Tree and Cherry Tree Cottages, which are at a lower level than the appeal site. At present, the outlook from the rear of these cottages and their back gardens is towards a curved, retaining bank.

Much of the vegetation at the top of this bank would be replaced by the new boundary fence, with the flat roof of the bungalow visible above part of this. However, the fence would not be significantly higher than the existing vegetation and the profile of the bungalow's roof would be modest, so the effect would not be unduly overbearing. As such, I find the change in outlook for the occupants of the adjacent cottages would not be harmful.

31. Small areas of outside space for the new dwelling would be situated at the corners of the development's triangular plot, on the border with the two cottages. Nevertheless, the fence would be sufficiently high to prevent significant overlooking and the perception of overlooking from these spaces. Therefore, the proposed outside spaces would not have a materially detrimental effect on the privacy of those occupying the cottages.
32. The proposed bungalow would be set well away from the rear gardens of the neighbouring dwellings on Wittmills Oak. The elevation facing those dwellings would be well screened by vegetation. Therefore, there would be no material harm to the outlook or privacy of the occupiers of those dwellings.
33. For the above reasons, I conclude the proposal would not have a harmful effect on the living conditions of neighbouring occupiers, with particular respect to outlook and privacy. Accordingly, I find no conflict with Policy BE3 of the VALP and Policy DHE6 of the BNDP. Together, these Policies require development to provide a good living standard for neighbours and not unreasonably to harm any aspect of the amenity of existing residents. I also find no conflict with the Framework or NDG, which seek a high standard of amenity for existing users.

Other Matters

34. The provision of one self-build dwelling would help to meet local housing need. It would also contribute to the local economy through construction and future occupiers' use of local services and facilities. This accords with the Framework which seeks to maximise the supply of housing, including self-build housing, and supports economic growth. However, as only one dwelling is proposed, I give these benefits limited weight.
35. I accept development of a house would increase natural surveillance around the site, thereby helping to prevent fly-tipping and anti-social behaviour. Nevertheless, there is little evidence to substantiate the concern about these issues, so I give this benefit little weight. I note the reasons why the appellants want to build a home in this location but, since any permission would run with the land, little weight can be attached to such personal circumstances.
36. I acknowledge the appellants have sought to follow pre-application advice provided by the Council. However, I can only assess the current proposal based on the information before me.

Planning Balance

37. The Council states the area covered by the VALP has a 4.7-year supply of deliverable housing sites, which falls slightly short of the required five-year supply for that area. The BNDP became part of the development plan more than five years ago. The VALP is less than five years old. The application subject of this appeal was made before the date of publication of the revised Framework.

38. According to footnote 79 of the Framework, paragraph 11(d)(ii) of the Framework is engaged in these circumstances. This states that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
39. For the reasons set out above, the proposal would conflict with Policies BE2, BE3, D3, NE1, NE4, NE8, S5, H6c, T1 and T6 of the VALP and Policies DHE1, DHE2, DHE5 and DHE6 of the BNDP. The Council accepts that Policy D3 is out of date. While there may be a limited degree of support from other development plan policies, I conclude that the proposal conflicts with the development plan, read as a whole.
40. Notwithstanding that Policy D3 is out of date, I consider that, taken as a whole, the Policies most important for determining this appeal are broadly consistent with the Framework, and that considerable weight can be attached to the identified conflict with them. In this case, harms would affect the character and appearance of the surrounding area, the location with respect to the settlement pattern, the living conditions of future occupiers, highway safety and biodiversity. Consequently, the substantial weight of these harms would significantly and demonstrably outweigh the limited benefits of the proposal identified in other matters, individually or cumulatively, when assessed against the policies in the Framework as a whole.

Conclusion

41. I have found the proposal conflicts with the development plan, read as a whole. No other material considerations, including the Framework, have been shown to indicate that a decision should be taken otherwise than in accordance with it. Therefore, the appeal should be dismissed.

C Carpenter

INSPECTOR