



Appeal Decision

Hearing Held on 4 & 5 July 2018

Site visit made on 5 July 2018

by A Jordan BA(Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 20 July 2018

Appeal Ref: APP/J0405/W/17/3188468

Land at Churchway, Haddenham, Bucks, HP17 8JS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Richborough Estates Ltd against the decision of Aylesbury Vale District Council.
 - The application Ref 17/01225/AOP, dated 31 March 2017, was refused by notice dated 31st July 2017.
 - The development proposed is outline planning application with access to be considered and all other matters reserved for a residential development of up to 72 dwellings, open space, landscaping, drainage features and associated infrastructure.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. A signed Statement of Common Ground (SoCG) was provided at the start of the hearing.
3. In relation to the matter of highway safety, the SoCG confirmed that following the provision of additional information from the appellant, the Highway Authority were now satisfied that the proposal could be safely accessed, with adequate provision for pedestrian access into and through the site. Furthermore, subject to off-site works at the Churchway/Aylesbury Road (A418) junction, the proposal would not have an adverse effect on the wider highways network. The Council were therefore no longer defending the second reason for refusal, which related to the effects of the proposal on highway safety.
4. Furthermore, following the refusal of the application, the appellant and Council have agreed a number of financial contributions provided for in a Unilateral Undertaking provided as part of the appeal¹. In addition to 30% affordable housing, the Undertaking includes provision for primary and secondary education contributions, provision for public open space and play equipment, the provision and maintenance of Sustainable Urban Drainage (SUDs) on site, financial contributions for transport signage, a travel plan and bus stop improvements, the implementation of a Traffic Regulation Order (TRO) to extend speed restrictions in the vicinity of the site and a financial contribution

¹ Document 2 submitted at the hearing

towards the adjoining cycle route. As a result the Council were satisfied that the concerns expressed in the third reason for refusal were now resolved.

5. The adopted development plan for the area is the *Aylesbury Vale Local Plan* (AVLP). This was adopted in 2004 and does not make provision for housing beyond 2011. As such, the Council and appellant are in agreement that the housing policies within it do not accord with guidance in the *National Planning Policy Framework* (the Framework) and should be considered out of date. The parties confirmed at the hearing that none of the designations outlined in "footnote 9" applied and, as a result, the "tilted balance" outlined in Paragraph 14 of the Framework is engaged.
6. The Haddenham Neighbourhood Development Plan was adopted in 2015. Housing policies within the plan were quashed following a Consent Order in 2016 and so cannot be taken into account in determining planning applications.
7. The *Vale of Aylesbury Local Plan* (VALP) is currently undergoing public examination. The plan includes a site identified for housing development in the VALP as HAD007, which lies opposite the appeal site. The plan is subject to significant unresolved objections and so, in accordance with guidance in paragraph 216 of the Framework, I attribute only limited weight to the policies within it.
8. The SoCG confirmed that the parties were in agreement that a 5 year supply of housing land could currently be demonstrated, although the appellant disputes the extent of supply expressed by the Council. The Council and the appellant also agree that the site is close to a range of services and public transport links.
9. The application is made in outline form with all matters other than access reserved for future consideration. The proposal is accompanied by various indicative plans intended to demonstrate the potential of the site to accommodate the proposal, including the parameters of development, an indicative layout and landscape structure for the site.

Main Issue

10. Accordingly, the main issue for the appeal is the potential effect of the proposal on the character and appearance of the area and upon the local landscape.

Reasons

11. The site lies around 600m from an Area of Attractive Landscape (AAL) the boundary of which runs along the A418 to the north. This in turn provides a buffer to the Chilterns Area of Outstanding Natural Beauty (AONB). The village of Haddenham and the appeal site are not, however, subject to protective designations.
12. Policy GP35 of the AVLP amongst other things states that the design of new development proposals should respect and complement the physical characteristics of the site and the surroundings, the natural qualities and features of the area, and the effect on important public views and skylines. The policy is consistent with the Framework which recognises the intrinsic character and beauty of the countryside and the need for development to take account of the different roles and character of different areas. I therefore attribute it full weight.

13. The Aylesbury Vale District Landscape Character Assessment (AVDLCA) defines a number of landscape character types (LCTs) across the district and breaks these down into more defined Landscape Character Areas (LCAs). The site lies within LCT9 "Low Hills and Ridges" of which the central southern edge is defined as "9.9 – A418 Ridge" LCA. This comprises most of the area north and south of the A418 from Thame to Aylesbury. The road runs along a shallow ridge which falls steeply to the north and more gently toward the south. Further to the north the steeper slopes of the Thame Valley are notable. The LCA changes from a more wooded landscape to an open, arable one towards the west.
14. In the area around Haddenham, to the north of the village, the landscape is characterised by large open fields which very gently slope towards the settlement. I noted during my site visits that this was a pastoral landscape of medium sized fields most of which were edged with established hedgerows. Tree cover was evident along field edges and in scattered copses, which reduced short to medium range visibility in places. Small clusters of dwellings were visible along roads outside established settlements. Isolated farms and dwellings are also dotted sporadically across the fieldscape. The character was predominantly one of a settled agricultural landscape with long range views available from higher ground. When travelling along roads and footpaths, high hedgerows provided some enclosure with sporadic open views available across fieldscapes. The area around Haddenham appeared particularly open, and the existing residential and industrial structures within the settlement were notable established features in the landscape. Large arable fields predominate, and these change to smaller paddocks on the settlement edge.
15. The appeal site comprises both arable land and grassland on the edge of Haddenham. The site is bounded to the west by Churchway and to the south by "Green Lane"² a bridleway which runs towards Westlington and separates the site from a ribbon of housing which extends along Stanbridge Road. It is edged to the east and north by open fields. In this regard, whilst it sits on the edge of the village, and immediately adjacent to the built up edge of the settlement, it lies within open countryside. The site is largely flat and although established planting lies to the southern and eastern edges, the sporadic field boundaries along the Church Road frontage and to the north leave the site exposed in public views from the highway and footpaths to the west, and across open fields on the approach from the north.
16. The Council consider the site to be poorly related to the existing settlement. Despite some sporadic development to the east, Churchway/Stanbridge Road provides a strong delineating feature. It is clear when travelling along the highway, that the 2 sides of the road have distinct and different characters. The east is largely open and notwithstanding development some distance away in the vicinity of Haddenham Garden Centre, it is predominantly undeveloped. In contrast, the west is developed with a relatively dense built form. Furthermore, the site lies beyond the existing northern extent of development with no defining topographical feature delineating it other than the field boundary. Extension of the built envelope in this location therefore has the potential to appear intrusive due to both its relative exposure to the north and east, and due to the absence of similar development to the east of Churchway within which new development could become assimilated.

² Also referred to as the Greenway

17. The application was made in outline form and the layout plans submitted with it are therefore indicative only. However, insofar as they seek to demonstrate how development could be assimilated into the landscape, I have taken them into account in my assessment of the proposal. The development would comprise up to 72 dwellings which would be limited to 2 storeys³, and would include open space and landscaping, including on site drainage features. The illustrative layout shows the dwellings set back from the site edges with substantial areas of planting and open space along the existing field boundaries. Taking into account the extent of development proposed, in views into the site the landscaping would be perceived as part of the development, rather than providing a buffer which entirely screened the housing from view. The proposal is also accompanied by a Landscape and Visual Impact Assessment (LVIA) which includes assessments from 20 different viewpoints in and around the site.
18. The introduction of substantial built form would fundamentally change the character of the site and its pleasant agricultural and rural appearance would be lost. From viewpoints 7 and 17 the full extent of the development would be evident in the fieldscape, where even with extensive landscaping the proposal would form an intrusively urban departure in open countryside. This would also be evident from the Aylesbury Ring (viewpoint 5) through sporadic gaps in the hedgerows. This effect would be more evident in winter months, when existing field boundaries and the proposed landscaping would have less capacity for screening. This would also be clearly apparent to residents immediately opposite the site. In these collective views it is clear that the proposal would have a very significant adverse effect on the existing landscape.
19. The full extent of the development would not be apparent when closer to the village (viewpoints 6 and 16). In these views the full extent of the development would be obscured by existing properties. Similarly, when in close proximity to the site from the south and along Green Lane, the established high hedge would partially screen the site, particularly if the development was set back from the boundary. Nevertheless, it is likely that the changed character of the site would still be clearly evident as parts of the built form would be visible to users of the bridleway above the hedge and in gaps in the field boundary. In views from the east, the visual effects of the proposal would also be evident in mid- range views. This would have a detrimental effect on this part of the countryside which I would categorise as being moderately adverse.
20. In viewpoints further south (12 and 20) the intervening screening from hedging and tree belts would reduce the visibility of the development in the landscape and in these views the prominence of other urban features would reduce the level of perceived intrusion with a resulting limited adverse effect. In views from the north, although it would be clearly visible, it would be seen against the backdrop of the existing village, which includes large scale industrial buildings within the wider panorama. This would, to my mind, reduce the level of visual intrusion perceived in these available views. In this context, and with increased distance from the site, the proposal would have a limited impact from the A418 (illustrated by viewpoint 12) and from some identified longer range views (14 and 3). In long range views further to the north, from higher ground, the development would be barely perceptible, and so would have a barely discernible impact on the landscape.

³ SoCG Condition 7

21. The night-time effects of the proposal have also been drawn to my attention. I am not convinced that the additional spread of development would be particularly evident in medium to long range views of the site at night, as it would be perceived within the context of the existing settlement. In more immediate views, as during daytime, the site would be clearly apparent. But although it is clear that light from the proposed dwellings would be evident at night-time, and that as such the landscape effects of the proposal would not be limited to daytime hours, I see no reason why the night-time effects of development should be considered an added intrusion in this case.
22. Therefore, I consider that the proposal would have a negligible impact upon long range views, and a moderate effect in mid-range views. In localised views the development would have a very significantly harmful effect on the character and appearance of area.
23. During the course of the hearing the appellant drew my attention to the development allocation in the VALP known as HAD007. The site is also subject to a current outline planning application⁴ seeking permission for up to 235 dwellings. It lies to the north of the existing village boundary, and would extend up to Churchway and further north than the appeal site. With this in mind I have given serious consideration as to whether the adjoining allocation would alter the setting of the development, to the extent that it would reduce the level of harm I have identified as arising from the appeal proposal. The proposal represents a large extension to the village which would significantly extend the village envelope to the north. In this context, if the adjoining allocation came to fruition, I acknowledge that the appeal proposal would be likely to appear significantly less intrusive than it would appear within the existing open and largely undeveloped context that exists at present.
24. I am advised that the adjoining site is subject to some local objection at the upcoming local plan Examination. I also note that the current planning application is at the time of writing still undetermined and subject to objection. Therefore, despite the site being advanced by the Council as an allocated site in the VALP, in which it would form part of longer term housing supply, I cannot be assured if and when development will come forward on this site, or what form it may eventually take. Similarly, whilst I am advised that a scheme for further development at Bradmoor Farm to the south is currently before the Council, this too is undetermined. Consequently, I am unable to draw any firm conclusions on future changes to the local landscape and this reduces the weight I can attribute to any modifying effect development at adjoining sites may have on the context for this development.
25. Furthermore, the site also lies within a larger parcel of land, known as HAD002 which was assessed as part of the Housing and Employment Land Availability Assessment (HELAA). HAD002 extends further north and covers a substantially larger area than the appeal site. Therefore, whilst I note the comments provided in relation to the assessment of this larger parcel within the evidence base for the emerging VALP, I have nonetheless assessed this proposal in relation to the potential effects of development from the smaller appeal site.
26. I also take account of the comments of the previous Inspector⁵, who identified the site as being exposed and prominent and concluded that the residential

⁴ Application ref 17/02280/AOP

⁵ Appeal ref PPP/J0405/A/91/179920/P8

development of the site would cause significant harm to the character and appearance of the area. The scheme before me is substantially different, including the potential for landscaping to mitigate the worst effects of the development and whilst I have, in the event, reached a broadly similar conclusion in relation to the nature of the site, I do not consider the previous decision to be determinative in this case.

27. I therefore conclude that although the effects of the proposal would not be so widespread as alter the nature of the wider landscape, the development of the site, even if extensively planted, would lead to very significant harm to the character and appearance of the area. It would therefore fail to comply with policy GP35 of the AVLP which seeks development which respects and complements the natural qualities and features of the area. This weighs against the proposal in the planning balance.

Other Matters

28. The effect of the proposal with regard to the loss of agricultural land was discussed at the hearing. Whilst all of the site is not currently in agricultural use, the parties agree that the development would lead to the loss of the site from agricultural production. The appellant's submission⁶ indicates that almost all of the site comprises "Best and Most" Versatile agricultural land, with a small part of the site comprising Grade 2 agricultural land. Nevertheless, as the total amount of agricultural land that would be lost would be relatively small, at around 5 hectares, I do not consider that the resulting loss of land from agricultural production would be significant in this case and find no conflict with the relevant guidance in the Framework. This matter does not therefore weigh against the proposal in the planning balance.
29. During the hearing I heard the views of local residents, who expressed concern that traffic from the proposed development would have a detrimental impact on the adjacent junctions with Rosemary Lane and Rudds Lane. Residents also expressed concerns that traffic from the appeal site would lead to increased trips through existing narrow lanes in the village, with Rosemary/Rudds Lane, Townsend, and Dollicott providing a potentially more direct route to the railway station. Residents were concerned that drivers from the site would be inclined to use narrow local roads, leading to a harmful impact in relation to highway safety and living conditions.
30. I noted during the site visit that these nearby lanes had restricted width in places and that parked cars and tight bends restricted visibility. However, I share the view of both the Council and the appellant, that although additional vehicles using these routes could not be discounted, the potential for meeting an on-coming vehicle would deter most residents from choosing this route over the more direct and unimpeded route to the station via Churchway, Banks Road and Thame Road.
31. Furthermore, I concur with the Council that the projected traffic movements arising from the proposal are sound and that the off-site measures proposed, which would be required before occupation, are sufficient to mitigate against the effects of increased traffic arising from the development. The effect of the proposal on the local highways network does not therefore weigh against the proposal.

⁶ Report by Kernon Countryside Consulting March 2017

32. My attention has been drawn to localised flooding incidents in the village, and the concerns of residents, that the proposal would exacerbate these. The proposal is accompanied by a Flood Risk Assessment⁷ which I am satisfied demonstrates that the site is not at significant flood risk and which, subject to the proposed conditions, could be developed without giving rise to increased flood risk elsewhere. This matter does not therefore weigh against the proposal. Furthermore, I am satisfied that subject to an acceptable scheme being provided as part of reserved matters, the proposal would not impact on the living conditions of nearby residential occupiers.
33. The effect of the proposal on local wildlife was also a concern for some residents. However, I note that the Council's ecologist is satisfied that the ecological effects of the proposal could be mitigated by measures to be secured by planning conditions and that such measures are aimed at providing an overall enhancement in local habitat. I am therefore satisfied that the proposal would not cause harm to local wildlife and attribute some limited weight to the improvement in local habitats in the planning balance.
34. The effects of the proposal on the setting of the nearby Haddenham Conservation Area were not a concern for the Council. The proposal would be visible in some limited shared views of a small proportion of the Conservation Area, which includes the Cider House, a non-designated heritage asset. Having regard to the limited proportion of the Conservation Area which would be affected, and the limited extent to which the appeal site contributes to its setting, I share the view that the proposal would have a neutral effect on the heritage asset. During the hearing my attention was drawn to the potential for increased traffic movements through the village and so through the Conservation Area. Whilst I acknowledge that additional development may lead to some additional traffic movements, I have no convincing evidence that this is likely to occur at a volume which would alter the character of the Conservation Area. This matter does not therefore weigh against the proposal in the planning balance.
35. The effect of the proposal on local services was a concern for some residents, particularly with regard to the cumulative impact of the proposal when considered alongside the extent of other recent and proposed development in the village. The Council are now satisfied that subject to the provisions in the submitted Unilateral Undertaking, the effects of increased demand on local services would be mitigated. In this regard, and in the absence of any substantive evidence that the proposal would cause significant identifiable harm to local services, this matter does not therefore weigh against the proposal in the planning balance.

Benefits of the proposal

36. The proposal would provide up to 72 dwellings, 30% of which would be affordable and which would be secured by the Unilateral Undertaking. Although the parties agree that there is currently not an undersupply in the district, I take account of the fact that the proposal would make a contribution to boosting housing supply in a village identified in the VALP as being suitable for strategic growth. This is a central aim of the Framework. It would also provide affordable housing which would add to the range of types and tenure of

⁷ Report by BWB Consultancy – Flood Risk Assessment Ref: ECW-BWB-EWE-XX-RP-EN-0001_FRA - March 2017

housing available in the local area and would meet an identified need⁸.

Accordingly, the benefits arising from housing provision carry significant weight in favour of the proposal.

37. The FOAN (Full Objectively Assessed Need) and the existence of a 5 year supply of housing land is not a matter of dispute between the parties. The Council contend that a supply of more than 11 years of housing land can currently be demonstrated, dropping to around 5.9 years on adoption of the VALP, although the extent of supply is not agreed by the appellant. I am aware that there are substantial objections to some of the allocations in the VALP and that the agreement to provide for unmet housing need in neighbouring districts will place additional demands on future housing supply within the district. It has been suggested to me that these factors adds further weight to the benefits of housing supply in the planning balance, but I do not consider this to be the case. The outcome of the VALP Examination will not be known for some time and in the absence of any convincing evidence that a 5 year supply will not be demonstrated at adoption, I see no reason to attribute further additional weight to the benefits of housing supply beyond that already identified.
38. The appellant also indicates that the proposal is capable of being constructed to provide a range of housing types, including 10% of the market dwellings and 15% of the affordable homes being built to wheelchair accessible standards. I am advised that supporting evidence to the VALP examination indicates need for a range of housing, including accessible dwellings. Policy H6 of the VALP is currently under Examination, and so a local requirement which exceeds the minimum standard required by Building Regulations is not currently in place. I note that the need for these dwellings is agreed by the parties. I also note that to provide them would accord with guidance in the Framework which seeks to provide a range of size and types of dwellings to meet local demand, and to plan positively to achieve high quality, inclusive design. However, I cannot be assured that the Local Plan Examination will reach the conclusion that the levels of accessible housing proposed are appropriate in the plan area and so, I cannot conclude that such a condition would be reasonable. I therefore cannot be assured that the development can secure the delivery of the accessible housing indicated and consequently cannot attribute it weight in favour in the planning balance.
39. The proposed scheme would undertake to provide for ecological enhancement measures. The proposal would also bring some economic benefits during construction⁹. The additional population would also assist in supporting local services and would bring some economic benefits through the New Homes Bonus. I attribute some limited weight to these ecological and economic benefits. The other benefits put forward by the appellant in relation to Council Tax and the financial contributions secured through the Unilateral Undertaking are to my mind provided in mitigation in order to make the development acceptable in planning terms and I have not therefore attributed them weight in favour of the proposal.

⁸ The Buckinghamshire Housing and Economic Development Needs Assessment (HEDNA) – supporting evidence to the VALP examination indicates need for a range of housing, including affordable dwellings. This matter is not disputed by the parties.

⁹ Estimated at 86 construction and 37 associated supply chain jobs (source HBF 2015) from Planning Statement 11.13

Conclusions

40. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework is one such consideration.
41. The adopted development plan is out of date and the Framework directs that in such circumstances development proposals should be permitted, unless the harm arising from the proposal significantly and demonstrably outweighs the benefits when assessed against the policies in the Framework, taken as a whole.
42. I acknowledge the collective benefits of the scheme, including the contribution to the range and amount of housing in the district. Taken together these carry significant weight. However, there would also be very significant harm to the character and appearance of the area in conflict with policy GP5. This harm would significantly and demonstrably outweigh the identified benefits of the scheme.
43. The proposal would not therefore represent sustainable development and material considerations do not indicate that planning permission should be granted. Accordingly, having regard to all other matters raised, the appeal is dismissed.

Anne Jordan

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Paul Tucker QC	Kings Chambers
Killian Garvey	Kings Chambers
Paul Hill	RPS Group
Cameron Austin-Fell	RPS Group
James Atkin	Pegasus Group
James Bradshaw	Richborough Estates
Tamsin McSmith	RPS Group
James Parker	P&B Transport Planning Ltd
Russell Crow	Richborough Estates

FOR THE LOCAL PLANNING AUTHORITY:

Hugh Flanagan of Counsel	FTB Chambers
Jason Traves	Aylesbury Vale District Council
Jonathan Bellars	Aylesbury Vale District Council
David Broadley	Aylesbury Vale District Council
David Marsh	Buckinghamshire County Council
Carmen Timoce	Aylesbury Vale District Council

OTHER INTERESTED PARTIES:

Cllr Brian Foster	Aylesbury Vale District Council
Cllr Judy Brandis	Aylesbury Vale District Council
Richard Hirst	Local Resident
Mrs Patricia Hirst	Local Resident
Mr Brian Fattorini	Local Resident
Jane Newton	Local Resident
Ernie Pusey	Local Resident
Antony Kendall	Local Resident

DOCUMENTS SUBMITTED DURING THE HEARING:

1. Signed copy of the Statement of Common Ground
2. Signed and dated copy of the Unilateral Undertaking
3. Evidence of Title Deed BM246899 & BM170182
4. Letter of Notification of the Appeal
5. Statements by Mr Fattorini relating to road width at Rosemary Lane, road and traffic at Dollicot Lane and incidents of flooding at Rosemary Lane, Rudds Lane & Downley Lodge
6. Extract from Strategic Landscape and Visual Capacity Study by BMD for AVDC August 2017
7. A3 plan showing HAD 007 site
8. A3 plan JWA-07 historic, existing and proposed vegetation plan
9. A3 plan JWA-04 Contemporary and Emerging Settlement Pattern (updated)
10. Note relating to Housing Land Supply – sites on JWA-04 Plan
11. Email Stuart Nelmes to James Bradshaw relating to flood risk assessment
12. Agreed amended conditions
13. Agreed amended conditions – tracked changes
14. Letter from Senior Archaeology Officer Buckingham County Council 5th July 2018