



Appeal Decision

Site visit made on 25 September 2017

by **Chris Forrett BSc(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 8th February 2018

Appeal Ref: APP/J0405/W/17/3176173

Land at Edgcott Road, Grendon Underwood, Buckinghamshire HP18 0TQ

- 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 outline planning permission.
 - The appeal is made by Mr N Parkin of Hamlin Estates Ltd against Aylesbury Vale District Council.
 - The application Ref 16/03029/AOP, is dated 18 August 2016.
 - The development proposed is the residential development for up to 72 dwellings.
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Decision

1. The appeal is dismissed and planning permission for the residential development for up to 72 dwellings is refused.

Procedural Matter

2. The appeal application was submitted in outline with the access considered at the outline stage. I have therefore dealt with the appeal on this basis. Notwithstanding that, an illustrative masterplan layout was also submitted with the application. However, as layout is not being considered at the outline stage, I have considered the appeal on the basis of the layout shown on the drawings as indicative to show a possible way of developing the site.
3. Although the appeal results from the failure of the Council to determine the application, its Statement of Case confirms that the application would have been refused for six reasons which relate to the character and appearance of the area, the effect of the development on the setting of a Listed Building, accessibility and highway safety issues, and infrastructure requirements.
4. The Council have also referred to the emerging Vale of Aylesbury Local Plan (VALP). However, from the information before me the examination of the emerging plan has yet to be completed, and policies within it could be subject to change. I can therefore afford only limited weight to the VALP and the policies contained within it.

Main Issues

5. The main issues are:
 - (i) whether the proposal is in a sustainable location;
 - (ii) the effect of the development on the character and appearance of the area;
 - (iii) the effect of the development on highway safety;

- (iv) infrastructure requirements; and
- (v) the effect of the development on the setting of the gate piers, pedestrian gates and railings at the entrance to Grendon Hall (which are a Grade II Listed Building).

Reasons

Sustainable location

6. Paragraph 55 of the National Planning Policy Framework (the Framework) seeks to promote sustainable development in rural areas and indicates that housing should be located where it will enhance, or maintain, the vitality of rural communities. However isolated homes in the countryside should be avoided unless there are special circumstances. In this case, none of these circumstances have been advanced.
7. The appeal site is located to the west of the Springhill housing estate which is some distance from the main part of the village of Grendon Underwood. From the evidence before me, the site is in the region of 2.4 kilometres away from Grendon school, the public house around 2.7 kilometres away, and the post office around 2.9 kilometres away. I acknowledge that there are bus stops close to the site and that there is a limited bus service (Aylesbury to Steeple Claydon) which runs through Grendon Underwood. Notwithstanding that, the pedestrian route between the appeal site and the main part of Grendon Underwood would be largely along a narrow unlit footway at the side of the main road.
8. The Appellant has indicated that Grendon Underwood is a location which is capable of accommodating significant housing development in the emerging VALP. However, given the current status of this document, I attach little weight to this.
9. The proposed dwellings would not be isolated in the sense that they would be adjacent to dwellings to the east of the site. Whilst Grendon Underwood does have some local facilities, the nature of the area indicates that the future residents of the development would have to rely heavily on the facilities and services of other larger settlements which would invariably involve regular travel by the private motor vehicle which is the least sustainable mode of transport. In this sense the dwellings would be isolated and not in a sustainable location and therefore would be in conflict with the Framework.
10. The Appellant has indicated a willingness to contribute to sustainable transport measures (including provision of a bus shelter and a contribution towards community transport provision) and a contribution towards improvements to the footway to Grendon Underwood. I will return to these matters later.

Character and appearance

11. The site is located within the 'Poundon – Charndon Settled Hills' Landscape Character Area as defined by the Aylesbury Vale Landscape Character Assessment (AVLCA) and the Wooded Rolling Lowlands Landscape Character type. The Marsh Gibbon Vale Landscape Character Area is located directly to the west on the opposite side of Grendon Road. At a National level, the area is within National Character Area 108 – Upper Thames Clay Vale.

12. One of the core planning principles of The Framework (at paragraph 17) is that the intrinsic character and beauty of the countryside should be recognised. Policy GP.35 of the Aylesbury Vale District Local Plan 2004 (LP) states that new development proposals should respect and complement the physical characteristics of the site and its surroundings, the historic scale and context of the setting, the natural qualities and features of the area and important public views and skylines. To my mind, despite the age of Policy GP.35, it is broadly consistent with the Framework.
13. The application was supported by a Landscape and Visual Appraisal which concludes that the site is an unexceptional area of settlement fringe and that the development of the site would not give rise to any significant landscape or visual effects. Notwithstanding that, the Council's main concern is that the development would irreversibly alter the character of the area from a baseline plot of open countryside to a built up site, which would decrease the rural experience of the area.
14. As noted above, the appeal site is located to the west of the existing Springhill housing estate. The site is generally flat and largely consists of a former playing field and car park. There is also a belt of trees to the east of the site which are the subject of a Tree Preservation Order. The Edgcott Road frontage to the site has a hedgerow which follows the footway along the road.
15. The Springhill housing estate is largely screened by the bank of trees and other landscaping over longer distances particularly when viewed from the south. Given this level of screening, and the relative lack of other development in the area, the appeal site has a rural feel and aspect to it.
16. Taking all the above into account, the development would have an undesirable urbanising effect on the local landscape and would result in the permanent loss of countryside. In coming to that view, I acknowledge that the level of harm which would arise is not significant and that the development of this site for residential purposes would not be significantly worse than any other greenfield site. Nevertheless, some harm would result.
17. In addition to the above, concern has been raised over the visual effects of the development to the occupier of Willow Lodge, and the night time effect of additional lighting. However, I consider that neither of these issues would amount to a significant impact on the character and appearance of the area (or on the amenity of the occupiers of Willow Lodge).
18. For the above reasons, the proposal would result in harm to the character and appearance of the area and would be contrary to Policy GP.35 of the LP which amongst other matters seeks to ensure that new development respects and complements the physical characteristics of the site and its surroundings. It would also be at odds with the core principles of the Framework.

Highway safety

19. Since the application was submitted to the Council, the position of the proposed access onto Grendon Road was amended and the Council have confirmed that it would now benefit from an adequate level of visibility for vehicles emerging from the access and I have no reason to disagree with that view. Notwithstanding that, concern has been raised that the proposal does not detail the level of forward visibility.

20. Given the undisputed level of visibility for vehicles which would be exiting the appeal site, the concern outlined by the Council must relate to forward visibility for vehicles wishing to turn right into the appeal site.
21. From the evidence before me, and from what I saw on my site visit, there would be a significant amount of forward visibility at the proposed junction for vehicles wishing to turn right into the appeal site. In this respect, I consider that this would be sufficient to allow vehicles to safely turn into the site without causing any unnecessary danger to other road users.
22. Comments have also been made in respect of the internal highway layout of the site. However, given that these relate to issues which would be considered as part of a reserved matters submission should I allow the appeal I have not considered these matters any further.
23. I have also had regard to the wider highway implications of the proposal in terms of traffic generation and the effect on the local distributor road network.
24. The Council have raised concern that the Transport Assessment submitted with the application did not consider the junctions of The Broadway and Main Street with the A41. The Council have stated that a recent appeal¹ for a site on The Broadway identified that The Broadway/A41 junction would be operating very near to capacity when the traffic for that development was added. However, I note that this development was for a greater amount of dwellings and the proposal was dismissed at appeal on the 28 September 2017.
25. Considering the above, given the amount of traffic likely to be generated from the current appeal proposal the development would not have such an impact on the highway network to warrant the withholding of planning permission on this ground.
26. For the above reasons the proposal would provide a safe and suitable access to the site for all people and would not have a significant impact on the highway network. It would also be in accordance with the transportation objectives of the Framework.

Infrastructure

27. The Council have outlined that the development should provide 30 affordable houses, a financial contribution towards education provision, a financial contribution towards off site leisure facilities (in addition to on site provision), off site highway works (a footpath link contribution and maintenance of such and a bus shelter), a financial contribution towards community transport provision, and Sustainable drainage provision and its long term maintenance.
28. With those matters in mind, the Appellant has provided an uncompleted unilateral undertaking. However, given the uncompleted nature of the agreement I give this no weight in the consideration of this appeal.
29. Policy GP.2 of the LP indicates that up to 30% of the total number of net dwellings should be provided as affordable housing. The Appellant has acknowledged that there is a high need and demand for affordable housing within the District and I have no reason to disagree.

¹ APP/J0405/W/16/3169545

30. Therefore, in accordance with the requirement of Policy GP.2, provision for affordable housing should be made. However, the application does not provide a mechanism for delivering such homes. Consequently, the proposal fails to make adequate provision for affordable housing contrary to the requirements of Policy GP.2 of the LP.
31. In relation to the bus shelter provision and a contribution towards community transport, these matters were put forward with the aim of mitigating the unsustainable nature of the location of the site. Therefore, the absence of a completed legal agreement to secure these transport improvements, and improvements to the footway to Grendon Underwood, further highlight the unsustainable nature of the location of the site.
32. Regulation 122(2) of the Community Infrastructure Levy (CIL) Regulations 2010 states that a planning obligation may only constitute a reason for granting planning permission for a development if the obligation is:
- (a) necessary to make the development acceptable in planning terms;
 - (b) directly related to the development; and
 - (c) fairly and reasonably related in scale and kind to the development.
33. From the limited evidence before me, I am unclear on how the financial amount of the suggested contributions for off-site leisure or education have been arrived at or how the development impacts on any of the requirements outlined by the Council. For example, the evidence submitted seeks contributions for off-site leisure facilities and secondary school education although there is little detail on what such monies would be used for. In the absence of such information, I am unable to conclude that these requests accord with the CIL regulations.
34. Therefore, notwithstanding the aims of Policies GP.86, GP.87, GP.88 and GP.94 of the LP, it has not been demonstrated that any of these contributions sought directly relate to the development or are necessary to make the development acceptable in planning terms. Therefore I am unable to conclude that the contributions sought would fully comply with Regulation 122 of the CIL Regulations. In these circumstances, the absence of a planning obligation for these matters does not weigh against the development.
35. In addition to the above, it has been indicated that on-site leisure provision should be made together with sustainable drainage provision and its long term maintenance. However, I am satisfied that these elements could be satisfactorily dealt with by means of suitably worded planning conditions should I be minded to allow the appeal.

Listed Buildings

36. The appeal site is located immediately adjacent to the gate piers, pedestrian gates and railings at the entrance to Grendon Hall. These are currently seen in the context of the existing dwelling (Willow Lodge) to the north.
37. The piers, railings and gates are somewhat divorced from Grendon Hall and as such are seen as an isolated feature. Notwithstanding that, this is the current setting of this Listed Building.

38. Given the outline nature of the application (with only means of access being considered), there is very little information available to consider the potential impact on the setting of this Listed Building.
39. However, given the location of the access point, and the amount of land between it and the gate piers themselves, I am satisfied that it would be possible to develop the site for residential purposes (for up to 72 dwellings) without having any significant effect on the setting of the gate piers provided that the northern area of the site was left largely undeveloped.
40. In coming to that conclusion, I acknowledge that some very limited harm would result to the setting of this Listed Building. Paragraph 134 of the Framework states that where a development would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
41. Whilst few public benefits of the development have been identified, the provision of additional dwellings could be considered to be a public benefit. However, such a benefit is clearly modest in the context of heritage assets.
42. Taking this into account, and the very limited harm which would arise to the heritage assets, the public benefit which would arise from the development would outweigh the limited harm which would result. Consequently, the development would accord with the Conservation aims of the Framework.

Other matters

43. I have also had regard to the other matters which have been raised during the consultation periods on the application, including matters relating to ecology, drainage and privacy.
44. In respect of ecology matters, it is noted that the application was supported by an ecological survey. It is acknowledged that there are records of Great Crested Newts in the area, together with other protected species. However, from the evidence before me, I am satisfied that suitable measures could be undertaken to ensure that such species are not harmed by the development.
45. In relation to drainage and flood risk matters, I am satisfied that these could be dealt with by means of suitably worded planning conditions.
46. Finally, in relation to potential privacy issues and matters relating to the detailed layout of the site, these would be considered at the Reserved Matters stage should I be minded to allow the appeal.

Planning balance

47. The adopted LP dates back to 2004 and therefore was adopted some years prior to the Framework. The Council acknowledge that the development plan policies in relation to the supply of housing land are now out of date and I have no reason to disagree with that view. Notwithstanding that, they still form part of the development plan. In accordance with paragraph 215 of the Framework, given that they relate to housing land supply to 2011, I can only give them little weight. As such, given that the policies are out of date, the fourth bullet point of paragraph 14 of the Framework comes into play.
48. In addition to the above, there is some disagreement as to whether the Council can demonstrate a five year supply of housing when considered against the full

objectively assessed need. However, given it is widely accepted that the development plan is out of date, it is of little relevance if the Council can demonstrate a 5 year supply of housing or not as the fourth bullet point of paragraph 14 has already been engaged.

49. The fourth bullet point makes it clear that where development plan policies are out of date planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole or that specific policies in the Framework indicate that development should be restricted.
50. I have found that the proposed development would not be situated in a sustainable location and would give rise to harm to the character and appearance of the area in conflict with the LP and the environmental role of sustainable development. Furthermore, the development would not deliver affordable housing in conflict with the LP and the social role of sustainable development. These factors weigh heavily against allowing the proposed development.
51. The proposal would provide economic benefits to the area in relation to the construction period, and an increase in local household spending following occupation. I also acknowledge that there would be some social benefit through the provision of much needed new housing.
52. Taking all of the above into account, to my mind, the factors weighing against the proposed development significantly and demonstrably outweigh the factors in its favour when assessed against the policies in the Framework taken as a whole.

Conclusion

53. Taking all matters into consideration, I conclude that the appeal should be dismissed.

Chris Forrett

INSPECTOR