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## Appeal Decision

Hearing Held on 6 September 2018

Site visit made on 12 September 2018

**by R C Kirby BA(Hons) DipTP MRTPI**

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

**Decision date: 9<sup>th</sup> November 2018**

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### **Appeal Ref: APP/J0405/W/17/3189046** **Land off Wendover Road, Stoke Mandeville**

- 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 William Main of Manor Oak Homes against Aylesbury Vale District Council.
  - The application Ref 16/04238/AOP is dated 25 November 2016.
  - The development proposed is outline planning application (with all matters reserved save for access) for the erection of up to 375 new homes and associated landscape and highway works.
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### **Decision**

1. The appeal is dismissed and outline planning permission is refused for an outline planning application (with all matters reserved save for access) for the erection of up to 375 new homes and associated landscape and highway works at Land off Wendover Road, Stoke Mandeville in accordance with the terms of application Ref 16/04238/AOP, dated 25 November 2016.

### **Preliminary Matters**

2. The Hearing opened on 6 September 2018 and sat for 1 day, and was closed in writing. I carried out an unaccompanied site inspection of the site and surrounding area on the 12 September 2018.
3. The application was submitted in outline and the application form makes it clear that approval for access is sought at this stage. It was confirmed at the Hearing that the Masterplans shown on drawings ref 40824/002C and A-1616 PL100 should be treated as indicative. It was also confirmed that the access design to be considered is that shown on drawing no E01 A. It is on this basis that I have considered the proposal.
4. During the course of the appeal the National Planning Policy Framework (July 2018) (the Framework) was issued. Both parties were given the opportunity to comment on the Framework and I have taken into consideration the comments received.
5. As stated in the header above, the appeal is against the failure of the Council to determine the planning application in the prescribed period. The Council advised that, had it been in a position to make a decision, it would have refused the application for three reasons. The first relates to the effect of the proposal on the character and appearance of the area; the second refers to the

impact of the proposal on the function and safety of the highway network and the third relates to the absence of planning obligations relating to affordable housing, open space, sustainable drainage, transport, education, healthcare, sport and leisure facilities.

6. The Council has however subsequently indicated that its concern relating to the function and safety of the highway network has been satisfactorily addressed by the appellant, and that it would not be seeking contributions towards healthcare provision.
7. At the Hearing the appellant produced a draft Deed of Undertaking (DoU), and with my agreement submitted an executed DoU following it<sup>1</sup> which makes provision for a number of matters which are considered later in my decision.
8. The Council has produced a replacement plan (the Vale of Aylesbury Local Plan 2013-2033 (VALP)) which is being examined. Whilst at an advanced stage, the Council indicate that this plan has limited/little weight at this time, and I concur.

### **Main Issues**

9. In view of the above, I consider the main issues in this case to be:
  - the effect of the proposal on the character and appearance of the area, and
  - the appropriateness or otherwise of contributions sought in relation to affordable housing, open space, sustainable drainage, transport, education, and sport and leisure facilities.

### **Reasons**

#### *Character and Appearance*

10. The appeal site is located within the open countryside and comprises 3 arable fields with an area of approximately 17.9 hectares. It is largely flat, enclosed by hedgerows with some trees along its boundaries and between the fields. A public right of way crosses the site. To the east is the Wendover Road, to the west the railway line and to the south a garden centre and business park. On the opposite side of Wendover Road are residential properties.
11. The site is located within the Southern Vale landscape character area (LCA 8.10) within the Vale landscape character type (LCT8), as set out in the Aylesbury Vale Landscape Character Assessment (AVLCA). The Southern Vale is characterised by a large area of low lying vale landscape with limited topographic variation and containing transport corridors and large villages, including Stoke Mandeville. The predominant agricultural use is arable with generally large, open fields with well-trimmed hedges, and paddocks and small grazing parcels on the fringes of settlements. The appeal site and locality displays much of this character.
12. The built form of Stoke Mandeville adjoins the northern boundary of the appeal site. The village is not readily apparent when travelling along Wendover Road, until within the vicinity of the roundabout with Station Road. The area has a largely rural character and Wendover Road provides a pleasant entrance into

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<sup>1</sup> Dated 14 September 2018

the village and Aylesbury beyond. Given the undeveloped nature of the appeal site, I find that it makes a positive contribution to the rural setting of Stoke Mandeville.

13. The appeal proposal would fundamentally change the character and appearance of the site and surrounding area. It would have a significant urbanising effect upon this area of countryside, introducing a form of development that would not reflect the ribbon development on the opposite side of Wendover Road. It would also change the form of the village, which is largely centred along Station Road, and would extend the built form of the settlement considerably along Wendover Road into an area characterised by open, undeveloped fields. The single access into the site and the likely loss of vegetation to facilitate this would exacerbate this harm and would markedly alter the character and rural approach into the village.
14. Although not before me at this stage, the illustrative master plans show blocks of landscaping within the site. Whilst this may soften the impact of development over time, it would also serve to draw attention to the development, in an area where blocks of tree cover are limited. Furthermore, in the winter months, the effect of such landscaping in screening the development would be significantly reduced.
15. This impact of the scheme on the landscape character of the area would be considerable from a number of receptors, including from the public right of way which crosses the appeal site, from where there are open views of the Chiltern Hills. Although the layout of the scheme is not before me at this stage, it is likely that these views would be significantly interrupted by new dwellings on the site, something that the appellant acknowledges in the submitted Landscape and Visual Impact Assessment. The proposal would be likely to have a significant urbanising effect on the public right of way crossing the site, thereby reducing the enjoyment of it to users.
16. The proposal would also significantly change the pleasant rural approach and setting of Stoke Mandeville which would be readily apparent from vantage points in Wendover Road within the vicinity of the appeal site, from Marroway, from the Station car park and from the rear of nearby dwellings in Ligo Avenue and Meadow Park. The proposal would intrude into the open views out of and towards the village.
17. Further afield, the impact of the scheme on the form of Stoke Mandeville would be more apparent, including from higher ground such as Coombe Hill to the south of the appeal site. From here the village of Stoke Mandeville largely blends into the surrounding landscape. The proposal would intrude into the surrounding countryside and would extend the built form of the village towards the garden centre and business park, eroding the open, rural setting of the village and drawing attention to the built form of it, which existing development therein does not. Whilst such views are at a distance, I do not share the appellant's view that the proposal would be unobtrusive in the wider panorama.
18. In summary, the proposal would harm the rural setting of Stoke Mandeville and introduce a substantial amount of new housing into this countryside location which would be visually intrusive from a number of public vantage points in the locality. In reaching this view I am mindful that the northern part of the site

was included within the Council's HELAA Report. However, the area referred to in this report is significantly smaller than the site before me and does not provide justification for harmful development.

19. I therefore conclude that the proposal would cause substantial harm to the character and appearance of the area. It would be contrary to saved Aylesbury Vale District Local Plan 2001-2011 (AVDLP) Policy GP.35 which requires development to respect and complement the physical characteristics of the site and the surroundings; the historic scale and context of the setting; the natural qualities and features of the area and the effect on important public views. It would also conflict with the Framework because the proposal would not contribute to protecting and enhancing our natural, built and historic environment<sup>2</sup>.

### *Contributions*

20. The obligations contained within the DoU are not in dispute. However, I am obliged to consider whether the contributions are in accordance with paragraph 56 of the Framework and the statutory tests set out in regulation 122 of the Community Infrastructure Levy Regulations 2010 (CIL Regulations).
21. Policy GP.2 of the AVDLP requires that affordable housing is provided on sites of 1 hectare or more or on developments of 25 or more dwellings. It states that a minimum of 20% and a maximum of 30% should be provided. The DoU makes provision for not less than 30% of the dwellings that would be provided on the site to be affordable. I am satisfied that such provision is reasonable and necessary to promote social inclusion and create mixed communities and to meet the needs of the community.
22. The DoU also makes provision for open space to be provided upon the appeal site. A number of policies within the AVDLP seek to make provision for outdoor play space, equipped play areas and amenity open space (Policies GP.86, GP.87, GP.88, GP.91). Further guidance is provided within the Council's Sport and Leisure Facilities Supplementary Planning Guidance and its Ready Reckoner in this regard. Given the demands that the intended future occupiers would place on such facilities, I am satisfied that such provision is reasonable and necessary.
23. Whilst amenity open space is not included within the DoU, I am satisfied that the provision of public open space as suggested in the DoU would have a similar purpose. The future maintenance of areas not forming part of the open space could be controlled by way of a landscape management condition which would be a consideration of a subsequent planning application on the site.
24. Paragraph 163 of the Framework states that when determining planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Photographic evidence was submitted at the Hearing which showed part of the site with standing water upon it. In this regard and given the amount of hard surfacing that would be likely to result from the development, it is necessary that a sustainable drainage system is designed for the site with maintenance arrangements secured for the lifetime of the

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<sup>2</sup> Paragraphs 8 and 170

development. The obligations within the DoU would make such provision and I am satisfied that the statutory test is met in this regard.

25. AVDLP Policies GP.90 and GP.94 require that provision is made for indoor sports facilities and community facilities. The DoU would contribute to the purchase of the land adjoining the playing field at Eskdale Road and improve sports facilities within this area. This site is closely related to the appeal site and would be accessible to the intended future occupiers of the new housing. The provision of such facilities would assist in addressing the shortfall of such facilities in Stoke Mandeville and I find that it is reasonable and necessary given the additional demand that would be placed on such facilities as a result of the development.
26. To promote sustainable transport, the provision of a cycle link to the car park at Stoke Mandeville Station is necessary and reasonable, in accordance with chapter 9 of the Framework relating to the promotion of sustainable transport.
27. AVDLP Policy GP.94 states that community facilities include schools. In this regard the Council has identified that contributions should be made towards the expansion of Bierton CE Primary School, to St Michael's Secondary School in Aylesbury and to Pebble Brook School. It has also indicated that the pooling threshold set out in Regulation 123 of the CIL Regulations is not exceeded in each case. I have no evidence before me to demonstrate otherwise. Given that it is likely that some of the new homes would be occupied by families with school age children, I consider that such contributions are reasonable and necessary. The contributions sought therefore meet the statutory test.
28. The Highway Obligations contained within the DoU, including the financial contributions payable to junction improvements at Wedover Road/Station Road and Station Road/Risborough Road/Lower Road, towards traffic calming in Weston Turville, towards the provision of a footway/cycleway to Station Road and towards the South East Aylesbury Link Road are reasonable and necessary to mitigate the impacts from the development on the transport network and for highway safety reasons. To promote sustainable transport the contributions payable towards passenger transport, to the primary school travel plan and the submission of a full travel plan are also reasonable and necessary. The Council has indicated that such contributions would not exceed the pooling threshold set out in Regulation 123 of the CIL Regulations, and I have no evidence before me to dispute this matter.
29. Although the obligations contained within the DoU are not disputed, the Council has indicated that there are a number of concerns in respect of the wording of the document, and the omission of certain matters that the Council considers are necessary. Were matters otherwise acceptable, this is a matter that I would raise with the appellant. However as I am dismissing the appeal for other reasons, it is not necessary for me to do this in this case. This issue is not a determining factor in this case.

## Other Matters

### *Highway Network*

30. Paragraph 111 of the Framework states that all development that generates significant amounts of movement should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed. In this regard the appellant submitted a Transport Assessment (TA) with the planning application, which has been revised twice to take into account the concerns raised by the Council.
31. As set out above, the Council has indicated that the most recent TA – Revision B, dated July 2018 and the mitigation measures contained within it addresses its concerns in respect of its second putative reason for refusal. Local residents do not however share the views of the Council in this regard.
32. The appeal proposal would gain access off the roundabout in Wendover Road. I acknowledge that this is a cause for concern for a number of local people; however the TA identified that the new access could be safely accommodated off the roundabout, a view shared by the Highway Authority. In the absence of substantive evidence to demonstrate otherwise, I have no reason to find differently to the Highway Authority in this regard.
33. It is clear from my observations, from the representations submitted and from the findings of the TA that queuing traffic is a feature of a number of the roads within the locality, notably during the morning and afternoon peak period. The TA predicted that most of the trips to and from the site during the morning and evening peaks would be by car, with 280 new vehicle trips in the morning and 230 in the evening. It is calculated that this equates to one new vehicle trip every 13 seconds in the morning peak period and one new vehicle trip every 16 seconds in the evening peak. This amount of vehicles using the local highway network would inevitably place a demand upon it and it is likely that at certain junctions near to the appeal site that additional queuing at peak times would occur as a result of the proposal.
34. The TA assessed the cumulative impact of the proposal with other development that would be likely to occur in the locality. It assessed 9 key junctions within the area in 4 different development scenarios<sup>3</sup>. Of these junctions, 3<sup>4</sup> would require improvement works to accommodate the appeal proposal. The appellant has indicated that they would pay a contribution to improvements to the local highway network in this regard and these are contained within the DoU. The TA found that the other 6 junctions did not require improvement works, including the Walton Street Gyratory because they could either cope with additional traffic movements, or the situation would improve and vehicle numbers using the junctions would be reduced once the South East Aylesbury Link Road, the Southern Link Road and the Eastern Link Road were connected.
35. In the absence of substantive evidence to demonstrate otherwise, I am satisfied that subject to the mitigation measures being implemented as set out

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<sup>3</sup> Scenario 0: Base 2017; Scenario 1: Base 2034 Do Minimum; Scenario 2: Base 2034 plus proposals; Scenario 3: Base 2034 (including proposed development; HS2 Stoke Mandeville bypass and the HS2 Stoke Mandeville bypass extension).

<sup>4</sup> Wendover Road/Station Road junction; Station Road/Risborough Road/Lower Road junction & Main Street/New Road/Brook end junction



in the TA, that the proposal would not have an adverse effect upon the function and safety of the highway network.

36. However, the funding of the mitigation measures proposed is dependent on other development schemes in the area contributing to them, along with the appeal proposal; not all of which have yet received planning permission. In the event that one or more of the schemes contributing to these works does not receive planning permission and/or is not delivered, it would be unlikely that the funding for the mitigation would be realised. As such, on the evidence before me, there is no certainty at this stage, that the mitigation works proposed would be implemented.
37. I acknowledge that the approach taken in the TA was supported by the Highway Authority. However, in the absence of a scenario assessing the impact of vehicle movements that would result from the proposed development on the transport network in isolation, I cannot be certain that there would be no unacceptable impact on highway safety nor that the residual cumulative impact would not be severe, if the identified mitigation measures were not implemented.
38. In light of the above, I am unable to conclude whether traffic associated with the proposal could be safely accommodated on the transport network as required by the Framework, or indeed make an assessment of what the residual cumulative impact of the proposal would be. In reaching this view, I am mindful that the proposal would improve pedestrian and cycling facilities in the locality, and that access to public transport would be enhanced. However these matters do not outweigh my concerns in this regard.

### **Planning Balance and Conclusion**

39. The appeal site is located within a sustainable location close to public transport facilities and local services. The number of dwellings proposed, including affordable homes would make a significant contribution to housing delivery in the area which would support the Government's objective of significantly boosting the supply of new homes. These matters carry considerable weight in the proposal's favour.
40. The proposal would deliver significant economic benefits during both the construction phase and as a result of the intended future occupiers supporting local shops and services.
41. The proposal would result in financial contributions being paid to the Council as part of the New Homes Bonus. However, the Planning Practice Guidance<sup>5</sup> makes it clear that a local financial consideration should only be considered material to a particular decision if it could help make the development acceptable in planning terms. It also states that it would not be appropriate to make a decision based on the potential for the development to raise money for a local authority or other government body. I am not aware of any evidence to demonstrate that the financial payment which would be likely to arise from the New Homes Bonus would help to make the proposal acceptable in planning terms and as such I give this matter no weight in my consideration of the scheme.

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<sup>5</sup> Paragraph: 011 Reference ID: 21b-011-20140612

42. The improvements to the land adjoining the playing field at Eskdale Road that would result from the proposal, whilst required to respond to the extra demand arising from the proposal, would be of some social and environmental benefit to the wider public, as would the upgrade of the cycle route along Wendover Road and Station Road, the crossing across the Wendover Road and the bridge across the railway line. I attach moderate weight to these benefits which would support not only the intended future occupiers of the scheme, but the communities' health and wellbeing, as well as the move to a low carbon economy.
43. Whilst landscaping is a reserved matter, the proposal would present the opportunity to include measures to make some enhancements to the ecology of the area. I attach some weight to this benefit.
44. Other than where I have identified above, the various planning obligations are intended to mitigate potential adverse impacts of the development and they cannot therefore be considered a benefit in favour of the proposal. They therefore carry neutral weight in my overall Decision.
45. Against these benefits is the substantial harm that would be caused to the character and appearance of the area, in conflict with Policy GP.35 of the AVDLP and the Framework. Further harm could be caused because there is no certainty that the proposal could take place without having a severe adverse impact on the transport network in terms of capacity, congestion and highway safety.
46. There is dispute between the main parties as to whether the presumption in favour of sustainable development set out in paragraph 11 of the Framework is applicable in this case. Whilst there are no saved policies within the AVDLP relating to the spatial strategy, settlement boundaries or the supply of housing, I consider that the policy that is most important for determining the application, Policy GP.35 of the AVDLP, is not out-of-date and as such the 'tilted balance' given by paragraph 11 is not applicable in this case.
47. Even if I had agreed with the appellant on this matter, and found that paragraph 11 was applicable, the harm that would be caused to the character and appearance of the area and the uncertainty over the proposal's impact on the transport network would, in any event, significantly and demonstrably outweigh the benefits of the proposal, when assessed against the Framework taken as a whole. The proposal would not therefore comprise sustainable development.

## **Conclusion**

48. For the above reasons, and having regard to all other matters raised, the appeal is dismissed.

*R C Kirby*

INSPECTOR



## **APPEARANCES**

### **FOR THE APPELLANT**

Mr P G Tucker QC	Kings Chambers
Mr B Vashi MRTPI	Strutt and Parker
Mr B Wright	Aspect Landscape
Mr P Hunt	Shakespeare Martineau

### **FOR THE COUNCIL**

Mr J Traves	Planning Officer
Miss I Tafur	FTB Chambers
Mr D Broadley	Senior Planning Policy Officer
Mr J Bellars	Landscape Architect and Urban Designer
Mrs J Thornton	Bucks Highway Authority
Mr D Tester	Bucks Highway Authority
Ms H Forbes	Solicitor

### **INTERESTED PARTIES**

Mr P Yerby	Local Resident
Mr M Steward	Local Resident
Mr S Mayes	Local Resident
Mr L Prestage	Local Resident
Mrs P Housego	Local Resident
Mrs P Jacob	Local Resident
Mr N Hazle	Local Resident
Mrs Jakeman	Local Resident

### **DOCUMENTS SUBMITTED AT THE HEARING**

1. Draft Statement of Common Ground
2. Copy of Policy Framework relevant to appeal from AVDC
3. Copy of draft VALP Potential Housing Allocations – South East of Aylesbury
4. Copy of Appendix 4 Aylesbury Link Roads

5. Copy of e-mail and attachments dated 30 August 2018 in respect of HELAA version 4
6. Copy of drawing showing appeal site and local context (ref 6404/ASP3 B)
7. Copy of Mr N Hazle's comments which were read out at the Hearing
8. Copy of AVDC Landscape Architect's comments relating to the planning application
9. Copy of letters (2 no) from Northgrove Land Ltd dated 30 August 2018 in respect of footbridge over the railway
10. Copy of letter dated 6 September 2018 from Network Rail in respect of railway footbridge
11. Copy of Policies GP.8, GP.24, GP.38, GP.39, GP.40, GP. 45, GP.59, GP.84, GP.91 of the AVDLP
12. Photographs of the appeal site, Station Road and Wendover Road
13. Appellant's calculations of AVDC Housing Land Supply
14. Council's calculations on Housing Land Supply
15. Copy of Council's CIL Compliance Schedule
16. Copy of Aylesbury Vale Landscape Character Assessment for LCA 8.10 Southern Vale

#### **DOCUMENTS SUBMITTED AFTER THE HEARING**

1. Copy of Hampden Fields Decision and e-mail drawing attention to specific parts of this, dated 11 September 2018
2. Copy of suggested conditions
3. Updated CIL Compliance Schedule
4. Statement of Common Ground dated 11 September 2018
5. Deed of Undertaking dated 14 September 2018