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## Appeal Decision

Site visit made on 16 October 2018

**by David Murray BA (Hons) DMS MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 19 November 2018**

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**Appeal Ref: APP/J0405/W/18/3203262**

**Land at Boot Field, High Road, Soulbury, Buckinghamshire, LU7 0BT.**

- 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 Mr Pargeter against the decision of Aylesbury Vale District Council.
  - The application Ref.16/04602/AOP, dated 23 December 2016, was refused by notice dated 8 December 2017.
  - The development proposed is the development of up to 10 dwellings with associated access, parking, landscaping, drainage and associated engineering works.
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### Decision

1. The appeal is allowed and planning permission is granted for the development of up to 10 dwellings with associated access, parking, landscaping, drainage and associated engineering works, at Land at Boot Field, High Road, Soulbury, Buckinghamshire, LU7 0BT, in accordance with the terms of the application, Ref 16/04602/AOP, dated 23 December 2016, and the plans submitted with it, subject to the conditions set out in the attached Schedule.

### Preliminary matters

2. The application is in outline format with all detailed matters reserved for subsequent consideration. I have therefore treated the submitted layout plans, including the master plan, for illustrative purposes only.
3. The application is accompanied by two Unilateral Undertakings (UU). One dated 27 September 2018 and signed by those with an interest in the land, to make contributions, as per a specified formula, to sport and leisure provision and to local community transport, should planning permission be granted. The second UU, dated 9 October 2018 and signed as above, makes provision for an affordable housing contribution to comprise one dwelling, that is 10% of the total number of dwellings implemented.
4. All references made to the National Planning Policy Framework (NPPF) are to the version issued in July 2018 unless otherwise stated.

### Main Issues

5. The main issues are
  - Whether the principle of residential development is acceptable in this location having regard to the Council's position on housing land supply;
  - The effect on the character and appearance of the area;

- The effect on nearby listed buildings and the Soulbury Conservation Area and whether the public benefits of the scheme would outweigh any harm caused; and
- Whether the proposal makes proper provision for sport and recreational facilities and community transport.

## **Reasons**

### *Background*

6. The appeal site forms part of an open field which lies alongside High Road (B4032) in the southern part of the village of Soulbury. The village has an overall linear form although the principal road through the village sweeps around the Church of All Saints which is situated on higher land near the centre of the village. South of the church lies 'The Boot' public house with two new houses opposite adjoining 'The Cottage'. Further, on the eastern side of High Road is a ribbon of development comprising a terrace of about 10 properties; frontage houses and a short cul-de-sac of detached ones; and this ribbon extends to about a similar degree southwards as the appeal site. The site adjoins the Soulbury Conservation Area.
7. The appeal proposal is for a residential development of up to 10 dwellings and the illustrative plans indicate that these would have vehicle access to the rear from a new cul-de-sac road. The new access to the highway would be formed adjoining an existing access and only pedestrian access to each property is shown to High Road through the existing road side hedge.
8. I note that an application for a mixed development of housing and a village hall on the site was made earlier in 2016 but was later withdrawn.

### *Policy context and housing supply*

9. The development plan includes saved policies in the Council's Aylesbury Vale District Local Plan 2004 (the AVDLP). The Council accepts that the housing supply policies in this plan are 'time expired' and there is no Neighbourhood Plan for Soulbury. The Council is in the process of preparing a new local plan - the Vale of Aylesbury Local Plan (VALP) and the Submission Version was submitted to the Secretary of State for Examination in February 2018. Examination hearings were held in July and the Inspector has now issued Interim Findings by letter of 29 September 2018. He indicates that while there is much that is sound in the VALP, further work is necessary on various aspects and in particular he indicates that the plan should be modified to set a housing requirement of 31,500 houses. That is about 22,000 additional housing units before unmet need outside of the district is added.
10. In terms of housing land supply the Council refers to its most recent Position Statement published in June 2018 which indicates that the Council can demonstrate a housing land supply of 11.7 years. Within this the Council recognises that as the strategic policies in the AVDLP are no longer saved, and the previously emerging Vale of Aylesbury Plan (VAP) was withdrawn in 2014 in line with the then Inspector's recommendations, there is no full objectively assessed need (FOAN) pending the testing and adoption of the VALP. Therefore, in the meantime the Council has used the Final Buckinghamshire Housing and Economic Development Needs Assessment (HEDNA) as the best measure of 'policy off' housing need and the Council refers to a number of

appeal decisions where this approach has been endorsed by an Inspector. The Position Statement uses a total housing requirement of 19,400 houses in the period 2013 to 2033.

11. The appellant's evidence on housing supply relates to the previous annual statement issued in August 2017 (which indicates a supply figure of 9 years) which has now been superseded. Moreover, the appellant's agent highlights the government's objective of significantly boosting housing supply and that it has produced a standard methodology for assessing housing need. Further, reference is made to the Housing and Economic Land Availability Assessment (HELAA) produced in May 2016 which indicated that the appeal site was suitable for housing with no significant constraints, whereas the 2017 version of the HELAA did a *'volte-face'* and indicated that the site constraints were unresolved.
12. Although the Council does not address these issues directly in the appeal, it appears to me that the HELAA is principally a list of sites put forward by landowners to be taken account of in the preparation of the local plan and it is not a comprehensive indication of the appropriateness of a site for development in the local plan itself. Therefore, only limited weight can be attached to this change.
13. In terms of the government's revision to standardise the methodology in the assessment of housing needs, as incorporated in the PPG in July 2018 to the 2018 version of the NPPF, this is a process that is central to the plan making process rather than a section 78 appeal. Further, the assessment of FOAN will have been a part of the examination of the VALP undertaken by the Inspector. At this interim stage in its assessment of the VALP it would not be appropriate to place significant weight on the recent finding of the need to increase the housing requirement as I have not been advised that the Council has responded formally to this, nor has the Council been able to assess how this is best achieved when considering the district as a whole.
14. Overall on the evidence before me, I conclude that it has not been demonstrated in the context of paragraphs 73 and 74 of the NPPF, that the Council's recent stated position on housing supply is wrong or that an adequate housing supply is not being delivered at the moment, pending the Council's consideration of the examining Inspector's interim findings on the VALP.

#### *Principle of development*

15. The first reason for refusal refers to AVDLP saved Policy GP.35 which relates to the effect of the proposals on the character and appearance of the area which I will consider in a subsequent issue. The Council confirms that little weight can now be given to policies in the AVDLP which restrict housing development in principle on the edge of settlements. Further, the Council does not put forward any policies in the emerging VALP relevant to this case.
16. I also note that in the Settlement Hierarchy Assessment (Sept. 2017), which is background evidence to the VALP, Soulbury was recognised to be a 'Smaller Village' as it had a limited range of key services and facilities and accessibility, although the table of such settlements indicates that the village was previously regarded as a 'Larger Village'. The settlement hierarchy put forward in that explains that 'Smaller villages' are less sustainable villages but small scale

development could be accommodated without causing any environmental harm and this would help maintain existing communities.

17. Within this policy background it appears to me that at the moment there is no policy objection to the principle of development in this general location.

*Effect on character and appearance*

18. In assessing this issue I have taken account of the Design and Access Statement (D&AS) submitted with the application and at my site visit I considered the proposal from around the appeal site itself and in longer distance views along the B4032 to the south of the site and from the north within the village.
19. Although the appeal site is part of an open field the topography of the land is such that, where it generally raises up from High Road and then falls away to the south-west, views of the surrounding open countryside from the public realm are limited. Further, longer distance views of the appeal site from the south are restricted by the sweep and undulation in the B4032 and the belt of mature woodland that exists to the south of the pumping station site. While some of these trees are deciduous it appeared to me that the woodland was of sufficient extent with undergrowth which would continue to effectively screen the proposed development in the winter. When viewed from around the church and the pub the lie of the land and trees/landscaping to the front of the two new houses limit views of the site until a point almost opposite the existing access to these houses.
20. In terms of the wider visual impact of the residential development proposed, I consider that the degree to which the proposed development would intrude into open countryside is local and limited. I acknowledge that at the moment there is an open boundary to the rest of the field and in that regard the site is not enclosed to ensure a form of 'rounding off'. Nevertheless, this concern can reasonably be mitigated by a condition requiring new hedge landscaping along the western edge of the new access road as generally shown on the illustrative master plan.
21. In relation to the current built up form and pattern of the village I consider that the principle of the built development proposed would tie in with the form and extent of the current ribbon on the eastern side of High Road and would respect the linear form of the village rather than be a material intrusion into the rural setting of the village as the Council alleges. This is subject to the details of the development being appropriate at reserved matters stage.
22. Overall on this issue I agree with the conclusions of the D&AS, especially as set out in the bullet points under 'Constraints' and 'Opportunities' on page 10. In relation to the requirements of saved Policy GP.35, I am satisfied that the development proposed would complement the characteristics and surrounds of the site and the setting of the village without materially harming important public views and skylines. I therefore find no conflict with this saved Policy GP.35.

*Effect on setting of listed buildings*

23. The Council's concern on this issue relates to the setting of the listed buildings of the Church of All Saints (Grade II\*) and together with the Manor House and the Old Cottage which lie in the residential frontage opposite the appeal site

and I considered these buildings and the space around them at my visit. I have also taken account of the Built Heritage Statement undertaken by Mr Rumley of RPS CgMs on behalf of the appellant which is both detailed and comprehensive in its assessment. I have also had regard to saved Policy GP53 but this is now inconsistent with the NPPF particularly the policy in chapter 16 to which much greater weight should be given.

24. Dealing with the setting of the church first, this lies in an elevated position with an open area around it. In views from the south the church is not visible until about level with the entrance to Manor Court on the eastern side of High Road. From this point northwards the wider setting of the church would not be disturbed although there would be a slight presence of new development in views to the east. I do not see this as being harmful to the setting of the church bearing in mind the presence of other frontage development in the part of the village to the east, and I judge that the effect would be less noticeable than the two new houses at 'The Stables'. By the time the main setting of the church is appreciated from around the frontage of 'The Boot' public house, there would be no visual inter-relationship with the residential development of the appeal scheme.
25. Turning to the Manor House and the Old Cottage, these lie in the frontage of residential development in a mixture of architectural styles and forms and the two buildings do not rely on the open field opposite for their architectural setting. Nor is there evidence put to me which establishes a clear historic function of the open field for their setting.
26. I agree with the Council that changes to the setting of a heritage asset can both positively and negatively change the significance of the heritage asset. I have taken account of the views of the Council's Conservation Officer, however, I agree with Mr Rumley's conclusions that while the proposed housing development would result in material changes to the wider setting of these listed buildings, these settings do not contribute to the understanding of the significance of these assets. As such, I am satisfied that the nature of the development put forward in outline would not have an adverse impact upon the significance of these heritage assets.
27. I have given great weight to the conservation of these listed buildings as heritage assets but I have found that the proposal would not harm them but would preserve the buildings and their setting.

*Effect on conservation area*

28. Turning now to the effect on the significance of the Soulbury Conservation Area, the boundary of this lies along the High Road frontage and the northern boundary of the site. The Council highlights the contribution the Church of All Saints together with the Manor House and the Old Cottage make to the architectural and historic character of the area.
29. I note that Mr Rumley concludes that the open field contributes to the transition from rural into the village environment and would restrict some views out therefore the site makes some contribution to the overall significance of the village but the loss of a part of the open field would have a limited effect on the overall significance of the Conservation Area. I make a similar finding and conclude that the harm that would result is much less than substantial harm as expressed in paragraph 196 of the NPPF.

30. Great weight has to be placed on this harm to the Conservation Area but it also needs to be weighed against the public benefits that arise. This will be a factor in the main planning balance.

*Provision of facilities*

31. This issue relates to the provision of sport and leisure facilities and sustainable transport as part of the development and is affected by the first of the legal agreements (UU) submitted on behalf of the appellant. The Council accepts that the contributions put forward in the UU meet the identified needs and overcome the third reason for refusal. Notwithstanding this, the requirements of the UU need to be assessed in terms of the Community Infrastructure Levy Regulations 2010, as amended.
32. On the basis of the evidence set out in the officer report on the planning application, I am satisfied that there is a policy requirement for the contributions towards the local provision of leisure and recreation facilities and towards the provision of sustainable transport. Further, there is no evidence before me to show that the contributions would exceed the limit on 'pooled contributions'. The contributions are therefore necessary to make the development acceptable in planning terms and are directly related to the development proposed, and are fairly and reasonably related in scale and in kind. The CIL tests are complied with and I will therefore take the UU dated 27 September 2018 into account.

*Other matters*

33. The second UU dated 9 October 2018 covenants that 10% of the development (one dwelling) will be a recognised 'affordable' house in accordance with the Council's Affordable Housing SPD (2007). The appellant puts forward this UU in order to meet the general requirements of the NPPF as set out in paragraph 64. This is a material consideration and I will have regard to this UU.
34. The development is also objected to by local people at application and appeal stage and I have taken these representations into consideration including at the site visit. Concern is raised about the prospect of more large 'executive' houses which are said not to be what the village needs, but the size and details of the houses proposed are not before me at this outline stage. People in the houses opposite the site say they will be overlooked from new houses at a higher level but I am satisfied that the new houses would be far enough away across a public road and there would not be material overlooking or loss of privacy. I also considered the visibility at the proposed access and the nature of the B4032 but there is no detailed evidence before me to show that the new access would be a danger to highway safety or that the capacity of this road cannot reasonably cope with the additional traffic that would arise from the development proposed. These other factors therefore do not carry much weight in the planning balance.

*Planning balance*

35. This proposal needs to be considered in the context of paragraph 11(d) of the NPPF as the policies in the development plan on the supply of housing are recognised to be out-of-date.
36. Bringing together my conclusions on the main issues I have found that there is no policy objection in principle to further small scale housing development in

Soulbury and this would include the nature of the appeal scheme. I have also found that the development proposed in outline would also not harm the character and appearance of this particular site and it meets the requirements of saved Policy GP.35 of the AVDLP.

37. The site lies close to heritage assets of listed buildings and the Soulbury Conservation Area and I have paid special regard to the desirability of preserving or enhancing these conservation assets. Within this context I have found that the proposal would not harm the setting of the listed buildings.
38. I have found that the proposal would result in less than substantial harm to the character of the Soulbury Conservation Area but while great weight has to be placed on this harm it also needs to be weighed against the public benefits that arise.
39. The proposal also needs to be seen in the context that the government seeks to significantly boost the supply of houses and the proposal would contribute towards this including a small provision for affordable housing. There would also be modest provision of sports, leisure and sustainable transport provision. I also acknowledge the appellant's reference to the economic benefits that would arise during the construction phase and afterwards with new occupiers needing services and facilities.
40. I conclude that the proposal fulfils the social, environmental and economic objectives of sustainable development when the Framework is read as a whole. These factors together constitute significant public benefits and outweigh the less than substantial harm to the Conservation Area.
41. Overall I find that the adverse effects that arise do not significantly and demonstrably outweigh the benefits and therefore planning permission should be granted in accordance with the presumption in paragraph 11(d) of the NPPF.

#### *Conditions*

42. The Council recommends 13 conditions be imposed on any permission and I will consider these under the same numbering. As the proposal is in outline it is necessary to impose conditions 1, 2, 3 and 4 concerning the reserved matters that need to be submitted together with the timing of their submission. I note that the Council seeks a reduced period for submission to prevent an accumulation of permissions, but as I am not placing weight on the issue of housing land supply the permission should be subject to the normal submission and implementation periods.
43. The evidence submitted suggests that there may be archaeological interest in the site and therefore it is reasonable to impose a condition requiring the submission of a scheme of investigation before work commences and its implementation (No.5). Further, in the interests of highway safety and to ensure adequate car parking within the site I will impose conditions 6, 7, 8 and 9 although it is not necessary or appropriate for a planning condition to *require* the developer to enter into a formal agreement with the highway authority and so I will not include this part of the recommended condition 7.
44. The development needs to have appropriate drainage to dispose of foul and surface water in the interest of avoiding flooding and pollution and I will impose conditions 10 and 11. The environs of the site also indicate that it is reasonable and necessary to have an ecological mitigation and enhancement strategy in

the interest of protecting and promoting natural habitats and I will impose condition No.12. Finally as the site lies in the vicinity of other houses and on a through road it is reasonable and necessary to impose condition 13 which requires the submission and implementation of a Construction Environmental Management Plan in the interests of amenity, avoiding pollution and highway safety.

**Conclusion**

45. For the reasons given above I conclude that the appeal should be allowed.

*David Murray*

INSPECTOR

Richborough Estates



### **Schedule of conditions**

- 1) Approval of the details of the layout, scale and external appearance of the building(s), the access and the landscaping of the site (hereafter called 'the reserved matters') shall be obtained in writing from the Local Planning Authority before the development is commenced. The landscaping scheme shall including the structural planting as shown on the illustrative master plan.
- 2) Plans and particulars of the reserved matters referred to in condition 1, relating to siting, design and external appearance of any buildings to be erected, the means of access to the site and the landscaping of the site, shall be submitted in writing to the local planning authority and shall be carried out as approved.
- 3) Application for approval of reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
- 4) The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.
- 5) No development shall take place within the site until the applicant, or their agents or successors in title, has secured and implemented a programme of archaeological work (which may comprise more than one phase of work) in accordance with a written scheme of investigation, which has been submitted to and approved in writing by the Local Planning Authority. The development shall only take place in accordance with the detailed scheme approved pursuant to this condition.
- 6) No part of the development shall be occupied until an area has been laid out within the site for vehicles to turn in accordance with details to be subsequently approved and that area shall not thereafter be used for any other purpose.
- 7) No other part of the development shall be occupied until the new means of access has been sited and laid out in accordance with the details subsequently approved and constructed in accordance with Buckinghamshire County Council's guide note "Commercial Vehicular Access Within Highway Limits" 2013.
- 8) The details to be submitted for the approval of the Local Planning Authority shall include a scheme for parking and manoeuvring in accordance with the Local Planning Authority's "Car Parking Standards". The approved scheme shall be implemented and made available for use before the dwelling to which to parking and manoeuvring relates is occupied and that area shall not be used for any other purpose.
- 9) No part of the development shall be occupied until the off-site highway works which include a footway, tactile crossings and uncontrolled pedestrian crossing linking the site with the existing footway on High Road, have been laid out and constructed in accordance with details to be first approved in writing by the Local Planning Authority in consultation with the Highway Authority. The development shall thereafter be completed in accordance with the approved details.

- 10) Development shall not begin until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed or any part occupied.

The scheme shall also include:

- Discharge Rates;
  - Discharge Volumes;
  - Storage volumes of all SuDS features;
  - Infiltration rate testing to BRE 365;
  - Groundwater level monitoring;
  - Consideration of infiltration techniques and other SuDS features as outlined in the CIRIA C753 SuDS Manual (2015) with justification for their exclusion to be included in the final Surface Water Drainage scheme. (The use of swales and permeable paving (either for infiltration or tanked attenuation storage) to reduce the effects of pollution in runoff on the environment is encouraged);
  - A detailed drainage layout with pipe numbers, sizes and gradients, complete with full construction details;
  - Calculations to demonstrate the proposed drainage system can contain up to the 1 in 30 storm event without flooding. Any onsite flooding between the 1 in 30 and the 1 in 100 plus climate change storm event should be safely contained on site; and
  - Details of connections (including any flow control devices and headwalls) to ordinary watercourses.
- 11) The development shall not be occupied until a whole life maintenance plan for the site has been submitted to and approved in writing by the local planning authority. The plan should set out how and when to maintain the full drainage system (e.g. a maintenance schedule for each drainage/SuDS component) following construction with details of who is to be responsible for the maintenance. The plan shall subsequently be implemented in accordance with the approved details and thereafter retained as approved.
- 12) An ecological mitigation and enhancement strategy (EMEP) addressing ecological mitigation, compensation and enhancement measures shall be submitted to, and be approved in writing by, the local planning authority prior to the commencement of the development. The content of the EMEP shall include the following:
- a) Review of site potential and constraints
  - b) Purpose and conservation objectives for the proposed works.
  - c) Detailed design(s) and/or working method(s) to achieve the stated objectives (e.g. SUDS/pond creation).
  - d) Extent and location/area of proposed works on appropriate scale maps and plans (e.g. retention/new planting of fruit trees).

- e) Type and source of materials to be used where appropriate, e.g. native species of local provenance, specification, number and location of bat and bird boxes, provision of permeable fencing/refugia for hedgehog).
  - f) Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.
  - g) Details of initial aftercare and long-term maintenance of ecological habitats (e.g. hedgerows, wildflower meadow).
  - h) Details for monitoring and remedial measures.
  - i) The approved plan will be implemented in accordance with the approved details.
- 13) Before any phase of the development hereby permitted is commenced, other than works of demolition and remediation, a Construction Environmental Management Plan (CEMP) for that phase shall have been submitted to and approved in writing by the LPA. Construction of the development shall be in accordance with the approved CEMP. The CEMP shall include the following matters:
- a) Parking and turning of vehicles of site personnel, operatives and visitors
  - b) loading and unloading of plant and materials;
  - c) Piling techniques;
  - d) Storage of plant and materials;
  - e) Programme of works (including measures for traffic management and operating hours);
  - f) Provision of boundary hoarding and lighting;
  - g) Protection of important trees, hedgerows and other natural features;
  - h) Protection of the aquatic environment in terms of water quantity and quality;
  - i) Measures to control discharge of surface water and prevent increased localised risk of flooding;
  - j) Details of proposed means of dust suppression and noise mitigation;
  - k) Details of measures to prevent mud from vehicles leaving the site during construction;
  - l) Haul routes for construction traffic on the highway network; and
  - m) Monitoring and review mechanisms.