



Appeal Decision

Site visit made on 12 March 2019

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 April 2019

Appeal Ref: APP/J0405/W/18/3202280

Land to the west of Gib Lane, Bierton, Buckinghamshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by CALA Management Ltd against the decision of Aylesbury Vale District Council.
 - The application Ref 17/03316/APP, dated 25 August 2017, was refused by notice dated 9 November 2017.
 - The development proposed is erection of 95 dwellings (including affordable) access, landscaping and associated infrastructure.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. Archaeology and ecology reports have been submitted as part of the appeal. The Council's specialist consultees are satisfied with the contents of these documents and have raised no objection to permission being granted subject to the imposition of relevant conditions. I have no reason to take a different view. Reasons for Refusal (RfR) No.3 and No.5 therefore fall away.
3. A signed unilateral undertaking (UU) has been provided during the appeal process in response to RfR No.7. I shall return to this later in my decision.

Main Issues

4. The main issues in this case are:
 - a) the effect of the proposed development on the character and appearance of the area, with particular regard to whether it would lead to the harmful coalescence of Bierton and Aylesbury;
 - b) whether the scheme would make adequate provision for public open space;
 - c) the effect of the proposal on the operation of the local highway network;
 - d) whether the development would take appropriate opportunities to promote sustainable transport modes; and
 - e) in light of my findings on the above matters, and policy set out within the National Planning Policy Framework (the Framework), whether the proposal would represent a sustainable form of development.

Reasons

Policy position

5. Bierton is listed in the Aylesbury Vale District Local Plan (2004) (LP) as an Appendix 4 settlement where limited small-scale development is considered acceptable in principle. However, the Council does not seek to rely upon any of the housing supply policies within the development plan. It adopts the stance that saved LP Policies RA13 and RA14 are now out-of-date on the basis that they are predicated on housing targets for the plan period up to 2011 and the evidence relating to the district's housing need has changed significantly since the policies were adopted. Both policies take a protective approach towards new development which is inconsistent with the Framework's objective to significantly boost the supply of homes. I therefore agree with the Council that any conflict can only be given very limited weight when considering proposals within or at the edge of settlements identified in Appendix 4.
6. The Council is in the process of preparing a replacement local plan for the period until 2033. The Vale of Aylesbury Local Plan is currently mid-examination with unresolved objections on housing numbers and spatial distribution. It is common ground between the parties that the emerging plan can only be given limited weight. The background technical evidence which sits behind the plan is a relevant material consideration and in that regard the Settlement Hierarchy Assessment (2017) identifies Bierton as a 'Medium Village' which meets 6 of 11 sustainability criteria. Settlements at this level of the hierarchy are described within the report as moderately sustainable locations for development.
7. The case for the local planning authority rests on two saved LP policies. Saved Policy GP35 states that the design of new development proposals should respect and complement: a) the physical characteristics of the site and the surroundings; b) the building tradition, ordering, form and materials of the locality; c) the historic scale and context of the setting; d) the natural qualities and features of the area; and e) the effect on important public views and skylines. Saved Policy RA2 stipulates that new development in the countryside should avoid reducing open land that contributes to the form and character of rural settlements, having regard to maintaining the individual identity of villages and avoiding extensions to built-up areas that might lead to coalescence between settlements. These policies are consistent with the Framework in seeking good design which recognises both its context and the intrinsic character and beauty of the countryside.
8. Paragraph 11 of the Framework sets out the presumption in favour of sustainable development. It explains that where the policies which are most important for determining the application are out-of-date, permission should be granted unless: i. the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. As the proposal would not affect any of the protected areas or assets referred to under Footnote 6, it is the second limb of the policy which would need to be applied.
9. The appellant argues that, since the Council's housing policies are out-of-date, the tilted balance within paragraph 11(d) of the Framework is engaged. I have been presented with appeal decisions which pull in different directions on this

point. However, it seems to me that, in this case, the policies cited on the decision notice are most relevant for determining this application. They are not makeweight policies as they go to the heart of the Council's objection, which is the effect of the proposal on the character and appearance of the area and the potential for coalescence between settlements. The appellant is not seeking to challenge the Council's five year housing supply position and therefore I find no reason to engage the tilted balance.

Character and appearance

10. The appeal site comprises a 3 ha parcel of agricultural land on the southern edge of Bierton, immediately to the rear of properties fronting the A418 Aylesbury Road. There is some development in depth in the village, but the pattern of growth has been predominantly linear, with much of the housing being single depth plots or arranged in small clusters close to the main road. This characteristic can be readily appreciated by users of Gib Lane, residents adjoining the appeal site and those persons travelling through Bierton.
11. The proposal would introduce residential development to the rear of a row of detached properties on the main road, with the access sweeping in from Gib Lane which would be upgraded with pavements. The scheme would be built at a greater density than the adjacent housing, which benefits from generous plots. The development itself would comprise a 3-storey flatted block together with a mix of 2 and 2½ storey detached, semi-detached and terraced houses. Some of these buildings would be taller than existing dwellings on the main road frontage, due to their steeper roof pitches and additional storey heights.
12. The development would have a close-knit layout with small gardens and a combination of driveways and parking to the front of properties. The plans include some provision for street trees but many of these would have limited space around them to grow to maturity. Even if they did survive, there is a reasonable probability that occupiers of the dwellings would selectively remove trees over the course of time. In my judgement, the landscaping would be ineffective in softening street scenes dominated by buildings and parking.
13. Overall, the scheme would have the character of a suburban housing estate, the location and design of which would be wholly at odds with the prevailing urban grain and the more established housing adjoining the site. The tight spacing of properties along the A418 would limit visibility of the new buildings from the main road; nevertheless, the development would have a significant adverse visual impact from Gib Lane and the public footpath which extends in the direction of Kingsbrook to the south. From these vantage points the scheme would read as a harmful incursion of built form into the countryside surrounding the village.
14. The appellant contends that the ongoing development of Kingsbrook, a major urban extension on the eastern side of Aylesbury, will alter the character of the area to such an extent that adverse landscape and visual impacts would not occur. My attention is drawn to a previous appeal decision in which the Inspector commented that Kingsbrook would reduce the sensitivity of Bierton to change. Whilst there can be no denying that the expansion of Aylesbury will encroach into the countryside setting of Bierton, the settlements will remain distinct entities, each with its own individual identity.

15. The masterplan for Kingsbrook shows the retention of a cordon of undeveloped land around the existing settlement of Bierton. Some of that buffer will comprise sports playing fields and the parcel of land immediately to the south of the appeal site is intended to provide one such facility. It is put to me that this would be sufficient to prevent coalescence occurring. To the extent that Bierton would not physically abut the new housing of Kingsbrook after the proposed development took place, this contention is correct. However, the gap would be significantly diminished and the perception of separation between the settlements would be irrevocably harmed.
16. From neighbouring residential properties on Aylesbury Road the proposed development would be visible in the foreground with no discernible gap to Kingsbrook beyond. For those walking the footpath along Gib Lane, whichever direction they travel, the sensation of leaving one settlement and entering another would be lost. The proposal to upgrade the footpath to a hard surface would further detract from the countryside feel.
17. Whilst the appeal site is modestly sized in agricultural terms, I do not agree that it is impossible to farm. Moreover, its purpose extends far beyond farmland; the site is integral to the form and character of Bierton, even though it will soon be divorced from the wider countryside. I therefore conclude that the proposal would be materially harmful to the character and appearance of the area and it would erode the individual identities of Bierton and Aylesbury, contrary to saved LP Policies RA2 and GP35.

Public open space

18. The parties are agreed on the quantum of public open space which would be required in the development. The Council's Sport and Leisure Facilities SPG Companion Document: Ready Reckoner (2005) indicates that the requirement is for approximately 5600 m² of public open space in connection with the proposed dwelling mix.
19. The appellant contends that the standard has been met, but its calculation includes parcels of land which have limited recreational or play value. These areas are more akin to amenity land. The supporting text to saved LP Policy GP91 makes clear that amenity areas are not credited against the Council's playing space standard, notwithstanding their contribution to the environment. Once the amenity land has been excluded, there would be a significant deficit in the provision of public open space of somewhere in the order of 1000 m². This would be to the detriment of the living conditions of the occupiers of the scheme. I therefore find conflict with saved LP Policy GP86 and its requirement that new housing proposals should include sufficient outdoor play space to meet requirements associated with the development.

Local highway network

20. The evidence demonstrates that the junction of Gib Lane with the A418 would operate with a significant amount of spare capacity, even when factoring in extant and emerging development in the area. This aspect of the transport assessment is not contested. The Highway Authority is principally concerned about the effect on the wider road network, including the A418/Coppice Way/Oldhams Meadow roundabout, A418/A4157 roundabout and the A418/Eastern Link Road junction which is due to be constructed shortly in connection with the Kingsbrook scheme.

21. The appellant's analysis suggests that the percentage increase in traffic flows at these junctions would be well within the daily variation in traffic flows. On this basis, it is argued that the impact of the proposed development on the operation of the highway network would be immaterial and traffic capacity assessments are not necessary. The Highway Authority considers this approach to be incorrect and has undertaken a more detailed assessment to ascertain the impact of the development traffic on each arm of the junctions. This elicits much greater percentage impacts, particularly on the A418 southbound arm of the Coppice Way roundabout.
22. The Planning Practice Guidance states that local planning authorities must make a judgement as to whether a development proposal would generate significant amounts of movement on a case by case basis. Significance may be a lower threshold where road capacity is stretched. Department for Transport Guidance explains that in congested areas, the percentage traffic impact that is considered significant or detrimental to the network may be relatively low (possibly below the average daily variation in flow) and should be determined in discussions with the relevant highway authorities. Having regard to this advice, it does not follow that the appeal scheme would not have a significant effect on individual junctions. I therefore consider the appellant's methodology and line of argument to be overly simplistic.
23. Paragraph 109 of the Framework indicates that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. It is put to me that the Highway Authority is unable to make a case that the cumulative impact would be severe. However, the evidence fails to demonstrate that the impact would be within acceptable limits. The more detailed analysis carried out for individual arms on these locally sensitive strategic junctions casts significant doubt on the appellant's case and therefore further consideration of the network impacts is required.
24. As it stands, there is insufficient information to accurately assess whether the residual cumulative impacts on the road network would be severe. The absence of any substantive traffic modelling weighs against the proposal.

Sustainable transport modes

25. The residential streets within the appeal scheme have been designed to a maximum speed of 20 mph in line with Manual for Streets. Consequently, there is no highway safety reason as to why a combined footway/cycleway is required within the development itself. However, cyclists would need to traverse a section of the A418 in order to reach the services and facilities in the nearby Kingsbrook development. I saw that traffic can be busy along this route, with a prevalence of heavy goods vehicles. This would act as a deterrent for the casual cycle user. I therefore concur with the Highway Authority that a 3 m wide off-carriageway footway/cycleway is required along the south side of the A418, between its junctions with the Eastern Link Road and Gibs Lane. It is unclear on the evidence before me whether this is achievable on highway land or land within the appellant's ownership and control. Consequently, it would not be appropriate to deal with the matter by planning condition.
26. During my accompanied site visit I was invited by residents to make the 1 km trip on foot along the A418 to the local primary school. The journey is along a continuous pavement, but the width of some sections makes it awkward for pushchair users and it is often difficult for a parent and child to walk hand in

hand. Whilst I appreciate that there are no records of accidents involving pedestrians, the proposal would result in increased use of a substandard footway with the risk that entails. In order that the additional pedestrian movements from the development can be accommodated safely, there is a need to undertake an assessment of the footway link to identify where improvements can be made. This exercise has not been carried out and therefore I find that the proposal would not make satisfactory provision for occupiers of the development to walk to school.

27. The Highway Authority has raised detailed points of concern regarding the internal layout of the development, notably in relation to visitor parking for the flats and the width of certain cul-de-sacs where the scheme does not comply with the relevant guidance. These deficiencies would not have justified dismissal of the appeal on their own, but they nevertheless weigh against the scheme in the planning balance.
28. I note that the appellant is proposing to carry out footway improvements in the vicinity of the site to enable occupants of the development to access bus stops. These would be upgraded with real time passenger information and a new shelter for the eastbound stop. Although the appellant considers the westbound bus shelter to be adequate, it is not well-located in relation to the actual bus stop and therefore a new structure is necessary. There would be the potential to secure this using a negatively worded planning condition. Subject to this, I consider that access to public transport infrastructure would be adequate.
29. Overall, the appeal site is not unsustainably located, given that Bierton benefits from some services and facilities and public transport is available to Aylesbury. Nevertheless, the scheme fails to take the opportunities available to encourage cycling and walking and thereby reduce reliance on the private car. This brings it into conflict with key policy objectives set out in the Framework.

Unilateral Undertaking

30. The appellant has submitted a signed UU which secures 29 of the proposed dwellings as affordable units in accordance with saved LP Policy GP2. The undertaking would also provide for a new bus shelter and contributions towards two solar powered Real Time Passenger Information units and the upgrade of a section of public footpath between Gib Lane and Kingsbrook. These are all benefits to be weighed in the planning balance.
31. Other obligations relate to the submission of a Travel Plan, the implementation of schemes of highway works and sustainable drainage, the delivery of public open space (to include a Local Equipped Area for Play) and the payment of contributions towards education and sport and recreation facilities. These provisions are principally aimed at meeting the needs of occupiers of the development and mitigating the adverse impacts on local infrastructure arising from the additional demand. They are neutral in the planning balance.

Planning Balance and Conclusion

32. The appeal scheme would deliver a mix of market and affordable housing. The Government's objective to boost the supply of homes and the identified need for affordable homes means that this carries significant positive weight in the planning balance, notwithstanding the Council's favourable housing land supply position. The social benefits of housing delivery are tempered by the

- inadequacies of the scheme in terms of public open space provision which would compromise the quality of living environment for future residents.
33. The scheme would also generate employment during the construction phase and lead to additional consumer spending by new residents in the longer term. The payment of CIL and s106 monies is another factor in support of granting permission. I have attached the economic benefits modest weight overall.
34. Against this, I must weigh the harm to the character and appearance of area and the adverse impacts on the separate identities of Bierton and Aylesbury as perceived on the ground and by residents. The erosion of the gap between the settlements weighs heavily against the proposal. The failure of the scheme to have proper regard to the need to assess the impact on the local highway network and prioritise sustainable transport modes further militate against the scheme. The small gains to the biodiversity value of the site, arising through tree planting and landscaping, would not offset the environmental harms.
35. It has been argued that there would be no detrimental impacts to heritage assets, archaeology or biodiversity. However, the absence of harm is a neutral factor which weighs neither for nor against the development.
36. Even if I am wrong in relation to my finding on the tilted balance, the adverse impacts arising from the scheme would significantly and demonstrably outweigh the benefits. The scheme would not constitute sustainable development in the terms of the Framework. As such, there are no material considerations of such strength or importance as to outweigh the conflict with the development plan taken as a whole.
37. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Robert Parker

INSPECTOR