



Appeal Decision

Site visit made on 14 October 2014

by Nick Fagan BSc (Hons) DipTP MRTPI

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

Decision date: 29 October 2014

Appeal Ref: APP/J0405/A/14/2223594

Fayrefield, Towcester Road, Maids Moreton, Buckingham MK18 1RD

- 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 En-Site Ltd against the decision of Aylesbury Vale District Council.
 - The application Ref 14/00117/APP, dated 16 January 2014, was refused by notice dated 17 April 2014.
 - The development proposed is the construction of thirteen sustainable dwellings including an on-site warden flat, ancillary parking and landscaping.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. A signed Unilateral Planning Obligation (UU) under s106 of the Act dated 22 September 2014 was submitted during the course of the appeal. I address this in Other Matters below.

Main Issues

3. The main issues in this case are:
 - (a) whether in principle this site is a sustainable location for such residential development;
 - (b) the proposal's effect on the character and appearance of the area;
 - (c) its effect upon the living conditions of the neighbours at 1-3 Fayrefield and Rivendell.

Reasons

Sustainability of the site location

4. Whilst there is no defined settlement boundary to Maids Moreton it is undisputed that the site lies on its north-western edge, outside the village itself. Policy RA14 of the adopted Aylesbury Vale District Local Plan (AVDLP) states that on the edge of the built-up areas of 'Appendix 4¹' villages including Maids Moreton permission may be granted for residential development up to 5 dwellings on a site not exceeding 0.2 hectares subject to three criteria relating

¹ As set out in Appendix 4 of the AVDLP

- to the character of the area. The size of the site is larger than this and the proposal is for 13 dwellings.
5. However, paragraph 49 of the National Planning Policy Framework (NPPF) states that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. Policy RA14 is a policy relating to the supply of housing, for the reason set out in the recent appeal decision mentioned in the Council's appeal statement². The Council accepts that the AVDLP is out of date and that an objectively-assessed 5-year housing land supply cannot be demonstrated. However, until such an objectively assessed housing requirement is set in a new Local Plan, it seeks to rely on an interim position statement (IPS) adopted in June 2014 which states that there is a 5.6 year supply for 2014-2019 and a 5.2 year supply for 2015-2020 including a 5% buffer³.
 6. The supply for each of the five years in 2014-2019 and 2015-2020 from the relevant sites is set out in detail in the trajectory attached to the IPS. Notwithstanding that only a 10% discount for non-implementation on sites of fewer than 5 dwellings seems slightly over-optimistic, the proportion of these sites in terms of total supply is fairly low and so, on balance, I consider the supply has been fully justified. It is reasonable to calculate the District's interim housing requirement using the 2011 Interim Household Projections published by CLG⁴ in April 2013 because at this moment in time these are the latest figures and Planning Practice Guidance states that such official projections should be used as a starting point in estimating overall housing need.
 7. I agree with the Council that it has not persistently under-delivered housing for the reasons in its IPS and a normal 5% buffer, rather than a 20% one, is therefore acceptable. 100 windfall dwellings per year are predicted to contribute to supply in the last three years 2017-2020 of 2015-2020 and I consider this to be reasonable based on the evidence of recent windfall delivery on sites of fewer than 10 dwellings as set out in the IPS.
 8. The Council's approach in its IPS therefore seems reasonable and justified for the reasons set out above, given the policy gap between the withdrawal of the Vale of Aylesbury Plan (VAP) in February 2014 on the advice of the Examining Inspector in January, and the subsequent preparation of the Housing and Economic Development Needs Assessment for the new Vale of Aylesbury Local Plan.
 9. However, as the Council acknowledges⁵, the household projections do not represent a full objective assessment of need. In developing the new Local Plan it will be engaging with adjoining authorities and considering unmet needs in these areas and elsewhere within the relevant housing market area to fully assess the housing requirements for the District, as suggested was necessary by the Examining Inspector for the VAP. So whilst a current 5+ years housing supply can be demonstrated in terms of the Council's IPS, there could be a higher overall housing requirement in the District than set out in this

² APP/J0405/A/13/2198840 – Stoke Hammond

³ Appendix 1 of the Council's appeal letter/statement of 22 September 2014

⁴ Department for Communities and Local Government

⁵ Paragraph 2, page 2 of its appeal statement & paragraph 1.15 of its IPS

document. So although the IPS is a material consideration in this appeal it does not prove the existence of an objectively-assessed 5-year housing supply and I do not therefore attribute conclusive weight to it.

10. Although the site lies outside the village it is relatively close in terms of walking distance to main facilities including primary school, bus stops and pub and there are footways along these routes apart from on this side of Towcester Road between the vehicular access to the site and the corner of Duck Lake.
11. Furthermore, despite its lack of a village shop, Maids Moreton is a relatively large village only just over a mile from Buckingham town centre and its facilities, with which it is connected by a relatively frequent bus service. The Council acknowledges that it is an 'Appendix 4' settlement in the AVDLP where limited small scale development is appropriate. The Council also acknowledges that its *Settlement Hierarchy Assessment 2013*, prepared as an evidence base for the VAP and likely to be used as such for the new Local Plan, identifies Maids Moreton as one of the larger villages which are by definition a sustainable location for growth.
12. I conclude that the provision of an additional 13 dwellings to the District's housing supply on this site to be a substantial benefit especially because Maids Moreton is considered by the Council to be a suitable village for growth in principle, the site abuts the built-up area of the village and has good access to local facilities.

Character and appearance

13. Although AVDLP Policy RA14 is an out-of-date policy because it is concerned with housing supply, its three criteria relating to character are still relevant. This is so not just because the Inspector in the Stoke Hammond appeal acknowledged they still had (diminished) weight, but because AVDLP Policies GP35 and GP53 set out in the Council's second refusal reason require new development to respect the physical characteristics, historic scale and context of the site and surroundings including open spaces and street patterns in Conservation Areas and their settings. The three criteria in Policy RA14 therefore seem to me to be a reasonable basis for assessing the effect of the proposal on the character and appearance of this area.
14. The Council concede that criterion "c) the proposal does not comprise the partial development of a larger site" is complied with. In terms of criterion "a) the site is substantially enclosed by existing development", it is enclosed by the new houses at 1-3 Fayrefield to the east and those on the north side of Duck Lake to the south. The appellant argues that it is effectively enclosed on the equivalent of three sides because the curtilage of Old Bakery Cottages extends back to nearly half the length of the western boundary and that of the dwelling attached to the vets (which has had its agricultural tie recently removed) extends a similar length along the northern boundary.
15. Be that as it may, the proposal would still comprise backland development, which is uncharacteristic of this part of the village and adjacent Conservation Area. Although the neighbouring dwelling to the north is set back behind the vets building, it is physically attached to it. Scotts Farm Close and Walnut Drive on the opposite side of the road are adopted cul-de-sacs where the houses face the road. None of these developments therefore comprise backland development and there is no such development off Duck Lake itself.

16. The appellant cites two recent decisions in Aston Clinton on what it considers to be similar edge-of-village sites, one granted on appeal⁶ and one resolved to be granted by the Council subject to a S106 agreement⁷. However, the former site is clearly not a backland site because it would front Stablebridge Road.
17. The latter Brook Street site would be a backland site but there is a significant difference between the access to that site and the proposed access to the appeal site. The scheme resolved to be granted by the Council was a resubmission of an earlier proposal dismissed on appeal⁸. That first scheme involved the demolition of the frontage bungalow at No 2 Brook Street in order to create a vehicular access. The resubmitted scheme involved a considerably wider access road by the demolition of a pair of semi-detached dwellings at 7-9 Brook Street.
18. In contrast the access to this proposal is much narrower, mainly only 5.5m, the width of the access road's actual carriageway, as well as being over twice as long. There are no examples of such narrow constrained accesses to such backland sites in this area and it would be alien to its character. In particular it would fail to respect the local street pattern and therefore fail to comply with AVDLP Policy GP53.
19. A public footpath runs diagonally through the site approximately from its north-west to its south-east corner and continues along the side of 1 Fayrefield until it meets Towcester Road. The proposal would leave it in its current position but it would run under the larger of the two proposed blocks. As such the development would be clearly apparent from the footpath, which would run through the new built development. However, in itself, this would not be unacceptable because public footpaths often run next to and even under buildings in a similar manner.
20. The Council opposes the proposal because it would urbanise the rural edge of the village in this location. There is no doubt this would be the case and the site is not previously developed land because it is a paddock separate from the curtilage of the former bungalow at Fayrefield. However, given the site's relatively sustainable location, the proposal should be assessed in terms of whether it would give rise to significant harm to the area's character, not merely whether it would alter such character.
21. The two residential blocks are designed as a contemporary interpretation of agricultural barns, albeit they are of more regular shape and their window and door openings are more rigidly symmetrical than would be typical of actual agricultural barns. There are a number of such barns nearby and although larger, the proposed blocks would not be significantly out of place on this site in part because they would be no higher than the adjoining houses at 1-3 Fayrefield and because their external materials would be appropriate in this context.
22. However, the smaller block would only be about 4m from the rear boundaries of 2-3 Fayrefield and this would be considerably closer than most of the houses on this rural edge of the village to the extent that it would seriously detract from the area's character. This alien proximity between buildings would

⁶ APP/J0405/A/2188868 dated 26 June 2013 – Land off Stablebridge Road, Aston Clinton

⁷ LPA Ref 14/00426/AOP – Land off Brook Street and Aylesbury Road, Aston Clinton

⁸ APP/J0405/A/10/2131283

adversely affect the setting of this part of the Conservation Area because it would be clearly visible from the rear of the houses on Duck Lake and the gaps between these dwellings from Duck Lake itself.

23. In summary, whilst the provision of residential accommodation in such modern 'barns' would not be unacceptable, I conclude that the proximity of the smaller 'barn' block to 2-3 Fayrefield and the constrained nature of the main access to this backland site would have a significant harmful effect on the character of this edge-of-village site within the setting of the Conservation Area, contrary to AVDLP Policies GP35 and GP53. For the same reasons it cannot be said that the proposal would comply with criterion b) of Policy RA14: that "the proposal would satisfactorily complete the settlement pattern without intruding into the countryside."

Living Conditions

24. I turn now to the potential effect of the long and narrow vehicular access to the site on the living conditions of the occupiers of Rivendell and 3 Fayrefield. The Inspector in the first Brook Street, Aston Clinton decision ruled that even though there would have been a 1.8m high acoustic fence along the side boundaries of the houses adjoining the access road to that site, and landscaped borders 1m to 4m wide, the living conditions of the adjacent neighbours would be harmed⁹. This was notwithstanding her acceptance that vehicle speeds on this access road would be low.
25. In contrast, the vehicular access to the proposed dwellings in this case is much narrower. Indeed it would be confined for most of its length to the width of the carriageway of the access road itself at 5.5m wide without any landscaped verges because there is simply insufficient room to provide any. There are existing 1.8m close boarded fences to the neighbours' side gardens but it is unlikely, given the narrowness of the access, that there would be sufficient width to upgrade them to acoustic fences. The length of this much narrower access is over twice that of the length of the access to the Brook Street site.
26. Rivendell has a bedroom window only about 1m from the northern boundary of this proposed access road, which is the sole window in this bedroom. Likewise, there is a sole bedroom window in the nearest front facing bedroom in 3 Fayrefield, which is equally close to the proposed access. I consider that such a constrained vehicular access would be likely to give rise to serious additional noise to these adjoining habitable room windows from vehicles entering and leaving the site, regardless of the low speed such vehicles would be likely to be travelling. In coming to this conclusion I have had careful regard to the comments of the Inspector in the Brook Street appeal decision and the considerably improved access in the second scheme the subject of the Council's resolution for approval.
27. Although the proposal for the footpath to run underneath the first floor of the larger block would not be objectionable in itself, the way in which it would do so is unsatisfactory. It would run between two largely blank walls and the scheme's refuse storage area would also be located in this undercroft area. Such an area would result in a poor quality environment both for residents and users of the public footpath, in part because it allows hiding places which could encourage potential assault or mugging crime or at least the fear of such

⁹ Ibid paragraph 17

crime. Although Maids Moreton is very unlikely to be a haven for such crime, the NPPF discourages design of this nature.

28. The location of the smaller block only 4m or so from the rear boundaries of 2-3 Fayrefield would, in this semi-rural context, amount to an over-close relationship detrimental to the outlook of the occupiers of these houses who currently look out onto a paddock on the rural edge of the village. Although there is a sufficient gap to prevent any direct overlooking of 2-3 Fayrefields' rear windows the fact that this block and these houses would be aligned in the same direction means that there would be direct overlooking of these neighbours' rear gardens at very close quarters from the proposed first floor flats. The siting of this block would therefore be harmful to these neighbours' reasonable living conditions.
29. I conclude, for these reasons, that the proposal would significantly harm the living conditions of the neighbours at 2-3 Fayrefield and Rivendell contrary to AVDLP Policy GP8, which states that permission will not be granted where proposed development would unreasonably harm any aspect of the amenity of nearby residents when considered against the benefits arising from the proposal. The benefits of providing 13 dwellings in this sustainable location do not outweigh this harm to neighbours' living conditions.

Overall planning balance

30. I have concluded that the proposal would significantly harm the character and appearance of the area and the living conditions of immediate neighbours. Whilst the provision of 13 additional dwellings in this sustainable location would contribute towards meeting a likely under-supply of an objective assessment of housing need in the District, this would not outweigh these significant harms. I find that, on balance, the proposal would not be sustainable development and there is therefore no presumption in favour of allowing it.

Other Matters

31. The Council confirms that the submitted UU obliging the appellant to pay a £17,875 contribution towards off-site leisure facilities satisfactorily addresses its fifth refusal reason. However, since I have concluded that the proposal fails in terms of the planning balance on the main issues of the case, there is no need for me to address this in any further detail.
32. A number of objections to the proposal point out that although it is stated as being for elderly occupants there would be nothing to prevent it from general occupation. I can see no specific reason why any residential development on this site, if it was deemed to be acceptable, should be reserved for elderly people. If such a requirement was in fact deemed to be necessary it could easily be secured by an appropriate planning condition. However, because the proposal is unacceptable for the above reasons, this situation does not arise.

Conclusion

33. For the reasons given above I conclude that the appeal should be dismissed.

Nick Fagan

INSPECTOR