



Appeal Decision

Site visit made on 30 September 2014

by Christa Masters MA (Hons) MRTPI

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

Decision date: 10 November 2014

Appeal Ref: APP/J0405/A/14/2223105

Stoney Furlong, Chilton Road, Chearsley, 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 Mr Simon Vickers against the decision of Aylesbury Vale District Council.
 - The application Ref 14/00581/APP, dated 27 February 2014, was refused by notice dated 29 May 2014.
 - The development proposed is residential development of 10 houses, including 8 market houses and 2 affordable houses, parking, access and landscaping.
-

Decision

1. The appeal is allowed and planning permission is granted for a residential development of 10 houses, including 8 market houses and 2 affordable houses, parking, access and landscaping at Stoney Furlong, Chilton Road, Chearsley Buckinghamshire in accordance with the terms of the application, Ref 14/00581/APP, dated 29 May 2014, subject to the conditions as set out on the attached schedule.

Procedural matters

2. The appellant has submitted two additional plans as part of the appeal submission. These are drawings number 13088-P02B and 13008-P03A. The drawings show an alternative external material in relation to plot 1 and also an elevation which includes the height of the existing properties along Chilton Road. Taking into account the judgement given in *Bernard Wheatcroft Ltd v Secretary of State for the Environment and Harborough District Council (1980)*, I do not consider that third parties would be prejudiced through my consideration of these plans and the appeal has therefore been determined on this basis.
3. On the day of the site visit, I also undertook a site visit for a separate planning appeal at Land South-West of Chilton Road, Chearsley (appeal reference APP/J0405/A/14/2222284). Although the main issues are the same in each case, each appeal has been considered on its own merits.
4. The appellant has referred to a number of appeal decisions¹ as part of their evidence. I have taken these decisions into account in reaching my conclusions below.

¹ APP/J0405/A/13/2202281, APP/J0405/A/13/2198840, APP/J0405/A/14/2215077, APP/J0405/A/13/2190619

Main Issues

5. The main issues in this case are:

- the effect of the proposal on the character and appearance of the area;
- whether the proposal makes adequate provision for off site leisure and education facilities;

Reasons

The effect of the proposal on the character and appearance of the area

6. The site is on the north side of the Chilton Road. It is currently an open field which is relatively flat and backs onto the cricket field. The south eastern boundary of the site is made up of existing residential dwellings which front Chilton Road. There is also an extensive existing boundary hedge to the north western boundary of the site, as well as native hedging to the boundary fronting Chilton Road. Collectively, these boundaries present the site as an open field on the edge of the village rather than as open countryside.
7. The site is located within an Area of Attractive Landscape. As such, policy RA.8 of the Aylesbury Vale District Local Plan (AVDLP) 2004 states that development proposals in these areas should respect their landscape character. The Aylesbury Vale Landscape Character Assessment (2008) has also been referred to by the Council. This was a technical document associated with the now withdrawn Vale of Aylesbury Plan. Although it has no formal status, it provides useful background to the defined landscape characteristics of the area. The site is located within LCA 9.7 Chearsley Ridge (LCT9). Chearsley is the only village in the area. Some of the key characteristics include a narrow ridge top, good view in all directions and the open character.
8. The Council contend the site is visually prominent when viewed from Winchendon Road and that the depth of the development would make it a prominent feature.
9. The appellant has prepared a Landscape and Visual Impact Appraisal (LVIA) in support of the appeal to address this issue. This describes the site as being located on the middle slopes of the southern slope of the Chearsley Ridge. The report concludes that the proposal would not give rise to any significant adverse visual effects. It is a relatively flat site and due to the existing vegetation in place, is well screened and is certainly not prominent from views along either the Chilton Road or Winchendon Road. In relation to the view of the site from Winchendon Road, these views must be set in the context of the existing housing along Chilton Road, as well as the dwellings on the south side of Chilton Road such as Upper Farm which is clearly visible. Figure 6 of the LVIA is particularly helpful in this regard as it clearly demonstrates the topography of the site as well as the relationship of the site to the existing surrounding residential development. Taking into account this evidence and what I saw on the site visit, I do not consider the site to be a prominent location.
10. Turning to consider the depth of the development proposed, I consider the opportunity to frame the cricket club site and the extensive boundary treatment proposed would be a welcome addition to the overall character of

the area. The opportunity to provide a pedestrian footpath through to the cricket club is also possible through the layout of the development as proposed.

11. Whilst I accept the layout is different to the linear form of development of the existing dwellings fronting Chilton Road, this in itself does not mean it is harmful to the character and appearance of the area. The ridge lines of the proposed dwellings would be broadly similar in height to the existing dwellings along Chilton Road, and this fact is borne out by drawing 13088-P02.
12. I consider the layout of the units fronting Chilton Road to be of an appropriate scale and height, with generous spacing and landscaping between the individual plots which assists in providing a rural feel to the development. The variety of housing styles, types and the external appearance of the dwellings proposed all reinforce my view that the depth of the development is entirely appropriate in this location. I accept that the drawings as provided indicate extensive additional landscaping and boundary treatment appropriate in style and design to the local character. Nevertheless, I am attaching conditions in relation to these matters so the appearance and landscape treatment of the site is satisfactory.
13. Although the Council have not raised any specific concerns regarding the design of the proposed dwellings, the appellant has offered to alter the materials on the external faces of plot 1 from render to brick. This was based on comments made within the LVIA. In my view, the render finish would be preferable in the context of the road frontage as proposed and accordingly I have not included reference to the amended drawing in my conditions below.
14. In relation to the first main issue, I therefore conclude that the proposal would accord with the objectives of policy RA.8 as it would respect the existing landscape character of the area. The proposal would also go some way towards meeting the broad objectives of the National Planning Policy Framework (the Framework) and in particular paragraph 61 which seeks to ensure that new development is integrated into the natural and built environment.

Whether the proposal would make adequate provision for local services and infrastructure

15. The submitted Section 106 Agreement aims to secure financial contributions towards meeting the need for additional facilities and services arising from the development in accordance with policies GP.88 and GP.94 of the AVDLP. Although the document has been signed and dated, it refers to the wrong appeal reference number. The document provides for a payment of £39,322 towards leisure facilities and also a payment of £29,293 towards education facilities.
16. In relation to the leisure contribution, the Council have relied upon the Sports and Leisure Supplementary Planning Guidance (SPG) 2004 as well as the Ready Reckoner Companion Document (2005) which provides a formula for calculating the contributions sought. However, no update to this document has been provided by the Council. On the basis of this information there is insufficient evidence presented to demonstrate that there is an existing shortfall in sports and leisure provision, or that the proposed development would create such a shortfall. The Council have failed to demonstrate that the

monies are necessary, and have not provided any details as to what and where the contribution sought would be spent.

17. Similarly, in relation to the education contribution sought, whilst the Council have stated that the children and young people department of the County Council would require such a contribution, they have not stated where existing deficiencies lie or how the money would be spent. The officer's report also states that no consultation response was received in relation to this matter. I therefore conclude that in relation to both contributions, the Council has failed to justify the sums sought with up to date information.
18. I therefore conclude the measures sought would fail to accord with the provisions of Regulation 122 of the Community Infrastructure Levy Regulations 2010 and the tests for planning obligations set out in the Framework.

Other matters

Affordable Housing

19. The appellant has provided a signed Unilateral Undertaking (UU) in relation to the provision of affordable housing on the site and has indicated a willingness to provide 2 of the units as affordable housing. However, the document is incomplete as it refers to the wrong appeal reference number and is not dated.
20. The Council have stated that the requirement for affordable housing as identified by policy GP.2 is only triggered for units of over 25 dwellings or more. However, the Affordable Housing Policy Interim Position Statement (2014) notes at paragraph 3.2 that the level of affordable housing need is a very high proportion of overall housing need and delivery of affordable housing is therefore an important sustainability consideration. Paragraph 54 of the Framework also makes it clear that in rural areas, local planning authorities should respond to local circumstances and plan housing development to reflect local needs, particularly for affordable housing. The Council's own housing officer has identified a need for two affordable housing units within the village. In this regard, I consider the provision of two affordable units, representing 20% of the total units would be a significant benefit which would weigh in favour of the proposal.
21. In the absence of an accurate agreement, but with the clear intent on behalf of the appellant to provide one, I consider it is appropriate in this case to attach a condition to secure a scheme for affordable housing and I shall attach a condition to this effect.

Housing Land Supply

22. The Framework aims to boost significantly the supply of housing. To this end, local planning authorities are required to identify and update annually a five year supply of specific, deliverable sites for housing (plus 5%).
23. The local planning authority accepts that it does not have an up to date planning 5 year housing land supply. However, it has provided a position statement dated June 2014. This interim approach is based on the Governments 2011 interim household projections. It is not therefore based upon a full objective assessment of housing need as required by Paragraph 47 of the Framework.

24. Taking the above matters into account, there does not appear to me to be a present five years supply of housing land. In light of this, I consider the contribution the appeal site would make towards the supply of housing land to carry weight in support of the appeal proposal before me.

Sustainability

25. Turning to consider the issues of sustainability, paragraph 7 of the Framework identified three strands to sustainable development – economic, social and environmental. In terms of the economic role, the proposed housing development would provide employment opportunities during the construction phase of the development. There would also be potential economic benefits arising from the new residents in terms of spending in the local economy.
26. In terms of the social dimension, the development of 10 houses (including 2 units of affordable housing) would go some way towards enhancing the vitality of the community. The level of support from local residents who have commented on the proposal, many of whom stress their view that the village would benefit from a high quality development of 10 dwellings rather than piecemeal development, seem to verify this. The proposal would therefore deliver social benefits in this regard.
27. Finally in relation to the environmental aspects, I have concluded above that there would be no adverse effect on the character or appearance of the area as a result of the appeal proposal. Although the site is located outside of the defined settlement boundary, it is a short walk to the village centre and the local amenities provided by the village. Additional landscaping and appropriate boundary treatment would also be secured to enhance the appearance of the development. As part of the pre application consultation, the appellant has suggested an additional footpath be provided linking the site to the village along Chilton Road as there is currently no footpath. The appellants have expressed concern regarding the wording of this condition. Having reviewed the documents presented, I have amended the wording of the condition to reflect the north side of the carriageway which will provide the direct link envisaged.
28. I therefore conclude that the proposed development would provide a suitable site for housing, having regard to the principles of sustainable development, the development plan and the National Planning Policy Framework.
29. A number of third parties have referred to the Cheersley Village Plan (2014). This document states that the Village intends to see the development of approximately 10 houses over the next 15-20 years. However, this document has no formal status in planning terms and accordingly, I have only attached very limited weight to it.
30. I understand the concerns and apprehension of local residents with regard to issues of traffic, drainage, effect on local services and safety concerns given the site's location next to the cricket ground. However, such concerns are not supported with detailed evidence to substantiate their case in respect of these matters, nor have I seen any formal responses of the relevant statutory or other consultees. On this basis I am able to afford such concerns only very limited weight in the determination of this case. Similarly, in relating to the issue of precedent, each appeal must be considered on its own merits.

Conditions

31. In addition to the conditions already covered within my decision, the Council has suggested a number of conditions which it considers would be appropriate were I minded to allow the appeal. I have considered these conditions in light of the advice contained with paragraph 206 of the Framework. Where necessary, I have amended amalgamated or replaced some of the Council's suggested wording for clarity or to more closely reflect the circumstances of the appeal proposal. I have attached conditions limiting the life of the planning permission and also requiring details of the external materials proposed. I have specified the approved plans for the avoidance of doubt and in the interest of the proper planning of the area. Additional conditions have been attached regarding visibility splays, a new pedestrian footpath, the provision of the accesses proposed and provision of the car parking layout as proposed. All these conditions are considered necessary and reasonable in the interest of highways safety. A further condition is attached regarding the provision of an affordable housing scheme in order to address an identified local need.
32. Further conditions concerning drainage and ground levels have been attached. These conditions are considered necessary in order to make the development acceptable in planning terms.

Conclusion

33. For the reasons set out above and taking into account all other matters raised, I conclude that the appeal should be allowed.

Christa Masters

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans 13088-L01, 13088-P01, 13088-P02, 13088-P03, 13088-P04, 13088-P05, 13088-P06, 13088-P07, 13088-P08, 13088-P09, 13088-P10, 13088-P11.
- 3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 4) No dwellings shall be occupied until space has been laid out within the site in accordance with drawing No 3088-P01 for cars to be parked. The parking areas shall be retained thereafter exclusively for their designated use.
- 5) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include proposed finished levels or contours; means

- of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (eg. refuse or other storage units, signs, lighting etc); proposed and existing functional services above and below ground (eg. drainage power, communications cables, pipelines).
- 6) If within a period of five years from the date of the planting of any tree or shrub, or any tree or shrub planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree of the same species and size as that originally planted shall be planted at the same place, unless the local planning authority gives its written approval to any variation.
 - 7) No development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the buildings are occupied. Development shall be carried out in accordance with the approved details.
 - 8) Development shall not begin until drainage works have been carried out in accordance with details to be submitted to and approved in writing by the local planning authority.
 - 9) No development shall take place until details of the proposed slab levels of the buildings in relation to the existing and proposed levels of the site and surroundings land have been submitted to and approved in writing by the Local Planning Authority, with reference to a fixed datum point. The buildings shall be constructed with the approved slab levels.
 - 10) No part of the development shall be occupied until the new means of access to the north has been sited and laid out in accordance with the approved drawing and constructed in accordance with Buckinghamshire Country Council's guide note 'Private Vehicular Access Within Highway Limits' 2013.
 - 11) No part of the development shall be occupied until the new means of access to the south has been sited and laid out in accordance with the approved drawing and constructed in accordance with Buckinghamshire Country Council's guide note 'Commercial Vehicular Access Within Highway Limits' 2013. For the avoidance of doubt the applicant will be required to enter into a S184 Agreement with the Highway Authority in order to comply with the requirements of this condition.
 - 12) No other part of the development shall begin until visibility splays have been provided on both sides of the access between a point 2.4 metres along the centre line of the access measured from the edge of the carriageway and a point 43 metres along the edge of the carriageway measured from the intersection of the centre line of the access. The area contained within the splays shall be kept free of any obstruction exceeding 0.6 metres in height above the nearside channel level of the carriageway.
 - 13) No part of the development shall be occupied until a pedestrian footway has been provided along the northbound side of the carriageway linking with the existing provision in Chearsley Village. For the avoidance of

doubt the applicant will be required to enter into a S184 Agreement with the Highway Authority in order to comply with the requirements of this condition.

- 14) The development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme. The scheme shall include:
- i) the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 2 of housing units;
 - ii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
 - iii) the arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing;
 - iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
 - v) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

Richborough Estates