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## Appeal Decision

Hearing held on 27 May 2015

Site visit made on 27 May 2015

**by L Gibbons BA (Hons) MRTPI**

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

**Decision date: 16 June 2015**

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**Appeal Ref: APP/J0405/W/15/3004135**

**Former Sewage Works, Clifden Road, Worminghall, Buckinghamshire HP18 9JR**

- 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 A, E and I Parsons against the decision of Aylesbury Vale District Council.
  - The application Ref 14/00572/AOP, dated 25 February 2014, was refused by notice dated 29 August 2014.
  - The development proposed is a residential development of 10 dwellings on the brownfield land, being former sewage works, including associated access.
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### Decision

1. The appeal is dismissed.

### Application for costs

2. At the Hearing an application for costs was made by A, E and I Parsons against Aylesbury Vale District Council. This application is the subject of a separate Decision.

### Procedural Matters

3. The address on the planning application form is different to that set out on the Council's decision notice. For the sake of clarity, I have used the address of the appeal site as set out on the Council's decision notice.
4. The application seeks outline planning permission with access, layout, landscaping and scale to be determined at this stage. Appearance is a reserved matter to be considered in the future. Although the application plans show part of a street scene, the appellants has indicated that this is for illustrative purposes. I shall determine the appeal on this basis.
5. As part of the appeal process, a revised drawing was submitted in respect of the layout of the site and incorporating a swept path analysis. The Council had no objections to this amendment. Additional drawings were also submitted in relation to the access to the appeal site and highways improvements on Clifden Road to its junction with Waterperry Road. At the Hearing both the Council and the Highways Authority indicated that these plans were acceptable and would overcome the concerns in relation to a satisfactory means of access subject to suitable conditions. I am satisfied that no-one with an interest in the scheme would be prejudiced by my taking these drawings into account.

6. The Council also confirmed that it was no longer seeking contributions towards education provision. I have dealt with the appeal on this basis.

### **Background and Main Issues**

7. Paragraph 47 of the National Planning Policy Framework (the Framework) indicates that in order to boost significantly the supply of housing, local planning authorities should ensure that they meet their full and objectively assessed needs for market and affordable homes. At the Hearing, the Council confirmed that it could not demonstrate a five year supply of housing land and that the supply would equate to a 4.3 years supply. On this basis there would be a sizeable housing land supply shortfall.
8. The Framework establishes that sustainable development should be seen as a golden thread running through both plan-making and decision-taking. Furthermore, in the absence of a five year supply of deliverable housing sites, relevant policies for the supply of housing should not be considered up-to-date. The Council refers to Policy RA14 in the first reason for refusal. Policy RA14 seeks to control residential development in the open countryside to small sites on the edge of settlements and the Council accepts that it is a relevant policy for the supply of housing. In the light of the above, I conclude that little weight should be attributed solely to the site being located in the countryside.
9. In these circumstances, paragraph 14 of the Framework sets out how the presumption of sustainable development should be applied and indicates that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the Framework as a whole.
10. Taking the above into account, the main issues are:
- (i) whether the proposal would comprise a sustainable form of development, including in relation to the effect on the character and appearance of the area; and,
  - (ii) Whether the particular contribution sought in respect of public open space is necessary to make the development acceptable, directly related to the development and fairly and reasonable related in scale and kind to the development.

### **Reasons**

#### *Whether the proposal would comprise a sustainable form of development*

11. The appeal site is located close to the village of Worminghall and is a former sewage works with the structures having been demolished a number of years ago. There is a small active pumping station which is on a separate parcel of land adjoining the appeal site to the east. Both of these are accessed from a concrete track to the north, the entrance to which is adjacent to the public house in the village.
12. The Framework identifies three dimensions to sustainable development – economic, social and environmental. In terms of the economic dimension, the proposal would make a contribution to the short term creation of jobs at the construction stage. Although the Council’s Settlement Hierarchy Assessment 2012 (Settlement Hierarchy), does not refer to employment sites within

Worminghall nevertheless, there are a number of potential local employment opportunities located within less than 2 miles of Worminghall. In particular, Wornall Park is a mile away and is a fairly large business estate with over 30 units of varying size. There is therefore the potential for the scheme to contribute to the rural economy within the area by new residents being employed locally.

13. In respect of the social dimension, Worminghall has very limited services and facilities including the pub which is close to the appeal site, a church and community hall; although I accept that new residents may make use of those facilities. There are also other services including a primary school and a combined shop and post office at Ickford, which is within a mile or so of Worminghall, residents would also be likely to make use of these. The proposal would also result in highway safety improvements at the junction of Clifden Road and Waterperry Road, which would be a benefit.
14. The two parties do not agree whether the appeal site would represent previously developed land. The permanent structures associated with the site's former use as a sewage works have disappeared, blending in to the wider landscape. It is not possible to determine what its use was, even if the character of the site differs from that of the adjoining fields and as such I consider the site is excluded from the definition of previously developed land (Annex 2 of the Framework). Therefore in the balance of the decision, the development of the site has less weight than if it had been previously developed land. I note the appellants refer to the site being considered alternatively as vacant or underused land and I accept that the composition of the ground, which has small area of hardstanding and some rubble means it cannot be farmed or grazed in a similar way to the areas adjoining the appeal site without restoration.
15. In any event, the proposal would make a contribution towards the identified need for market housing within the District. Worminghall is identified within the Settlement Hierarchy as being suitable for small scale growth. In addition, it would provide a range of sizes of accommodation, including small family houses which is referred to in the Worminghall Village Plan. I note the Village Plan also refers to the appeal site as a potential housing location. These factors would be considerations which would weigh in favour of the appeal proposal.
16. The environmental role of sustainability is for the planning system to contribute, amongst other things to protecting our natural, built and historic environment. There are proposals for the creation of a new habitat for great crested newts and mitigation measures for birds and bats. I accept that the proposal would also incorporate energy efficiency measures. Were the scheme acceptable in other regards, these measures could be secured by appropriate conditions.
17. It would be possible to cycle to the employment areas and I note there is a public footpath which is sometimes used by local employees to get to Wornall Park from Worminghall. The roads which run outside of the village do not have pavements, nor are they lit. A wide network of public footpaths also provides access to the facilities at Ickford, but these are un-surfaced and are also not lit. Public transport provision is also poor with 5 buses a day to Thame. There is therefore a high probability that residents of the scheme would drive rather

- than walk to access local employment opportunities and Ickford and to settlements with a wider range of services and facilities.
18. Policy GP35 of the LP refers to the design of new development and that amongst other things; it should respect and complement the physical characteristics of the site and its surroundings and the historical scale and context of the setting. Although appearance is a matter reserved for the future, landscaping, layout and scale are to be considered at this stage. I consider Policy GP35 is therefore relevant having regard to the particular circumstances of this appeal.
  19. The appellants refer to the village as having a number of focal areas which are spread apart from each other including the pub and church which are at opposite ends of the village. I accept that the village has a slightly unusual layout with some residential areas extending towards and around small fields which are mainly used as grazing land, including housing along The Avenue. I acknowledge that Court Farm extends out from The Avenue and that it has a more formal landscape than the countryside. However, it does not extend further than the main concentration of houses located along Waterperry Road and Clifden Road and is physically separated from the appeal site.
  20. The concrete access track to the appeal site runs along the boundary of a house which is marked by a long run of a high wooden fence. The gardens of the houses off Clifden Road also extend some distance south east and are a mixture of paddocks and formal garden areas with additional fencing. When looking towards this boundary, the village has a more urban appearance than the land to the west. I also consider this does provide an obvious delineation between the village along this edge and the countryside beyond, including the appeal site.
  21. Moreover, the appeal site is very clearly separated from the residential areas by an area of open countryside which also contains the access track and a public footpath which runs past the easterly boundary of the appeal site. The proposed scheme would protrude significantly further south west than Court Farm and beyond the main areas of development within the village. I therefore consider that new housing in this location would not be well related to the development pattern of the village, even taking into account its unusual shape; and that it would be physically and visually detached and isolated from the village.
  22. The appellants refer to the appeal site as being very different to that of the type of landscape identified for the area in the Council's Aylesbury Vale Landscape Character Assessment. When within the appeal site and when stood outside very close to the northern and southern boundary in particular, I accept its appearance is not one of a formally managed pastoral or arable landscape which surrounds the appeal site. The vegetation within the appeal site includes a number of plant species which I understand are common on disturbed land. There are some hedgerows and trees on the site, although the site is much more open on the western half. Some very minor remnants of its former use remain including the area of hardstanding, overgrown rubble piles and a number of concrete posts and some fencing. However, I consider these features are not sufficient to lend the site an urban or semi-urban appearance.
  23. Moreover, in slightly longer views from a number of the public footpaths looking towards the appeal site, a very different impression of the site is

gained. In this context, and without any remaining structures and even with the trees on the site, it has the appearance of being part of the surrounding generally open countryside and I consider it is part of the rural backdrop.

24. I note that landscaping would be incorporated within the scheme including boundaries with hedgerows. Nevertheless, the extent and scale of development proposed within the appeal scheme would represent an intensively developed site and the urban form of housing would appear significantly out of keeping with the surrounding countryside. It would be viewed as an intrusive and individual development with a lack of a clear association with the built development of the village. Although I accept that the pumping station would also be visible during the months when the trees are not in leaf, this is a fairly small building and is not the same scale or form as the proposed development.
25. In this way, the proposed development would fail to respect the context of its surroundings. It would cause considerable harm to the character and appearance of the area and it would be in conflict with Policy GP35 of the LP. In addition, the benefits of the scheme would not be sufficient to outweigh the harm to the character and appearance of the area. I return to the matter of sustainable development below.
26. I have been referred to a number of appeal decisions and in particular one within the District for residential development at Land off Chapel Drive, Aston Clinton. I accept that the Inspector in that case refers to lower quality land. However, I also note that the location of that proposed development was close to the village centre, had existing development on two sides and would maintain the compactness of the built-up area. Accordingly, the circumstances are not directly comparable with those that apply in this appeal. I have in any case, reached my own conclusions based on the evidence before me.

#### *Public open space contribution*

27. The Council has advised that financial contributions are required towards the provision of open and play space. The appellants dispute the need to provide a financial contribution and I have not been provided with a planning obligation. Policy GP86 of the LP refers to housing proposals including sufficient outdoor play space to meet requirements associated with that development. Policy GP88 refers to off-site provision of play space and planning obligations.
28. The Council refer to calculations for the proposed contribution being based on the 'Ready Reckoner' from the Council's Sport and Leisure Facilities Supplementary Planning Guidance 2004. However, the Council confirmed that calculations based on present day values would result in a slightly lower contribution per new resident. Despite this change, the Council state that the difference is so small that the amount that it has requested relates to the original higher contribution per new resident.
29. The Worminghall Village Plan identifies a local demand for a village recreation and play area and the Council indicates that the proposed contribution would go towards this potential facility. However, I have not been provided with any detailed evidence to indicate where this would be or whether there are suitable sites for the use within the village, albeit I note the appellants would be willing to provide land for this use close to the appeal site. It is not certain what size area would be required or how the contribution would be spent or when or

indeed whether this would be sufficient to bring forward a site. Accordingly, I cannot be certain that the contribution sought would be directly related to the development and fairly and reasonably related in scale and kind.

30. Consequently, and notwithstanding the aims of development plan policy and other inspectors' conclusions on the matter of open space, on the basis of the evidence before me, I am unable to conclude that a planning obligation seeking to provide these contributions would comply with Regulation 122 of the Community Infrastructure Levy Regulations 2010. In these circumstances, the absence of a planning obligation does not weigh against the development.

#### *Other matters*

31. The Council do not object to the proposed development in terms of the effect on the living conditions of adjoining occupiers, on the trees within the site and flood risk. Based on the site visit and evidence before me, I see no reason to disagree with these matters. However, these are not sufficient reasons to justify the proposal before me.

#### **Conclusion and balance**

32. The Framework makes it clear that the three roles the planning system is required to perform in respect of sustainable development should not be undertaken in isolation, because they are mutually dependent. It also makes it clear that pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment.
33. The appeal proposal would provide much needed housing within the District and would have a social and economic role to play in terms of achieving growth now and in to the future. However, the detached, isolated location of the appeal site from the village, along with the scale and form of development would unacceptably harm the character and appearance of the area. These adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole. This harm would not be outweighed by the availability of this site for development nor would the contribution the dwellings would make to the supply of market housing in the area.
34. For these reasons, the appeal proposal would not amount to a sustainable form of development and having regard to all other matters raised I conclude that the appeal should be dismissed.

*L Gibbons*

INSPECTOR

## APPEARANCES

### FOR THE APPELLANT

Mr I Parsons	Appellant
Dr M Bell	Rural Planning Consultancy, M B Planning and Prows Ltd
Ms S Bell	Landscape consultant
Mr L Day	Laurie Day Design Group
Ms C Sanderson	Delta-Simons

### FOR THE LOCAL PLANNING AUTHORITY

Mr J Peter	Planning Consultant on behalf of Aylesbury Vale District Council
Mr J Houston	Community Spaces Officer, Aylesbury Vale District Council
Mr D Marsh	Buckinghamshire County Council
Ms C Urry	Buckinghamshire County Council

### INTERESTED PERSONS

Mr J Hopcroft	Resident and Steering Committee for the Worminghall Village Plan
Mr R Edmonds	Local resident and business owner
Mr D Moore	Rectory Homes

### DOCUMENTS AND PLANS SUBMITTED AT THE HEARING

- 1 Letter from Buckinghamshire County Council to Aylesbury Vale District Council dated 26<sup>th</sup> May, 2015 – Highway Authority Comments, supplied by the Council
- 2 The Worminghall Village Plan supplied by Mr J Hopcroft
- 3 Extract from Aylesbury Vale Landscape Character Assessment – Ickford Pastoral Vale supplied by the appellants
- 4 Wikipedia extract – Ruderal species supplied by the appellants
- 5 Biodiversity Offsetting and Great Crested Newt Mitigation, Delta Simons, June 2014, supplied by the appellants
- 6 A3 plans 2015-1489-13 and 2015-1489-13 supplied by the appellants
- 6A Map of Areas A and B selected for habitat improvement and public open space potential supplied by the appellants

- 7 Appendix JP10 – aerial photograph of the appeal site supplied by the Council
- 8 Extract from the Cabinet progress report of Aylesbury Local Plan dated 11 November 2014, supplied by the appellants
- 9 Email exchange between Dr Bell and Mr Peter 27 & 28 April 2015 supplied by the appellants
- 10 Supplementary Planning Guidance Sport and Leisure Facilities supplied by the Council
- 11 Environment Agency Flood Risk Map postcode HP18 9JN supplied by the appellants
- 12 Revised highway conditions supplied by the Council and the appellants
- 13 Email exchanges and between Dr Bell and Aylesbury Vale District Council and a letter from Mr B Nicholson of Aylesbury Vale District Council (dated 3 October 2014) in matters relating to brownfield land supplied by the appellants
- 14 Extract from evidence submitted with the emerging local plan in relation to employment supplied by the appellants
- 15 Draft condition relating to open space provision supplied by the appellants

Richborough Estates