



Appeal Decisions

Site visit made on 6 October 2015

by S Stevens BSc (Hons) MSc DipTP DMS MCMi MRTPI

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

Decision date: 20 January 2016

Appeal A: Appeal Ref: APP/J0405/W/15/3128999

Land East of New Road, Weston Turville, Buckinghamshire HP22 5RA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to outline grant planning permission.
- The appeal is made by London & Slough Properties Ltd against the decision of Aylesbury Vale District Council.
- The application Ref 15/00263/AOP, dated 27 January 2015, was refused by notice dated 5 May 2015.
- The development proposed is the erection of 27 No. dwellings (outline – all matters reserved).

Appeal B: Appeal Ref: APP/J0405/W/15/3027979

Land East of New Road, Weston Turville, Buckinghamshire HP22 5RA

- 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 London & Slough Properties Ltd against the decision of Aylesbury Vale District Council.
- The application Ref 14/03627/AOP, dated 10 December 2014, was refused by notice dated 5 March 2015.
- The development proposed is the erection of 9 No. dwellings (outline – all matters reserved).

Decisions

1. Appeal A is dismissed.
2. Appeal B is allowed and outline planning permission is granted for the erection of 9 No. dwellings (outline – all matters reserved) at Land East of New Road, Weston Turville, Buckinghamshire HP22 5RA in accordance with the terms of the application, Ref 14/03627/AOP, dated 10 December 2014 and plan No 14-03/201 L, subject to the conditions set out in the attached schedule.

Procedural matters

3. The applications are in outline with all matters - access, appearance, landscaping, layout and scale reserved. I have therefore treated the access and layouts shown on the plans submitted with the applications as illustrative only.
4. Prior to the determination of the appeals signed Unilateral Undertakings were submitted. They are considered below.

Main Issues

5. The main issues are for both appeals are the effect of the proposed development on the character and appearance of the countryside and whether financial contributions towards off site sport and leisure facilities and education facilities are necessary.

Reasons

6. Appeal A is for 27 dwellings on land to the rear of the Appeal B site. The submissions indicate 15 units would be affordable housing. The illustrative plans indicate access would be provided via a new access road off New Road that would intersect the Appeal B site.
7. The proposal comprising Appeal B is for 9 dwellings which would be located along two strips of land adjacent to New Road which are separated by the access to Proposal A.
8. The Council has previously resolved on 13 November 2014 to grant outline planning permission (Ref 14/02590/AOP), subject to the completion of a legal agreement, for 6 of the dwellings on part of the site that now comprises part of the Appeal B site. The indicative layout for that proposal shows a line of 6 dwellings which would extend the line of development north westwards from the existing dwelling, No 28. The Appeal B proposal includes the area that was the subject of the earlier application but the site is now extended further along the road in order to incorporate the 3 additional new dwellings that are now proposed.

Effect on the countryside

9. The sites lie at the northern edge of Weston Turville outside the settlement boundary. The sites currently comprise a relatively square and flat area of land used as an equestrian small holding which contains a number of modest sized buildings and fenced areas. It is mainly laid to pasture. Around much of the perimeter boundary there are hedgerows and trees although much of this is deciduous and the open nature of the site is evident, especially when approaching the settlement from the northwest. There are public footpaths to the north and east of the sites.
10. The Council accepts that it can not demonstrate a 5 year supply of housing land. A five year housing land supply position statement, July 2015 was submitted by the Council which provides an updated analysis and some commentary based on a number of recent appeal decisions. The position statement concludes that the District has a 3.1 year housing land supply. In such circumstances the proposal must be considered in accordance with paragraphs 14 and 49 of the National Planning Policy Framework (the Framework).
11. Paragraph 49 of the Framework states that "housing applications should be considered in the context of the presumption in favour of sustainable development. 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." The Council also accepts that Policy RA14 of the Aylesbury Vale District Local Plan adopted in January 2004 (LP) should not be applied.
12. Paragraph 14 of the Framework sets out a presumption in favour of sustainable development. Where the development plan is absent, silent or relevant policies are out of date, planning permission should be granted unless the adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the

policies in the Framework taken as a whole or where specific policies indicate development should be restricted. Paragraphs 7 and 8 state that there are three dimensions to sustainable development – social, economic and environmental and that they must be considered together.

13. Paragraph 55 of the Framework seeks to promote sustainable development in rural areas. It states that housing should be located where it will enhance and maintain the vitality of rural communities. It also seeks to avoid new isolated housing.
14. As the proposed developments would be adjacent to existing properties that are situated on the edge of the settlement the developments would not result in isolated housing. Furthermore, the LP identifies Weston Turville as an Appendix 4 settlement which implies that it is considered to be appropriate to allow limited small scale development in the settlement. The Council's Settlement Hierarchy Assessment 2013 also identifies Weston Turville as one of the District's larger villages thereby defining it as a settlement offering the majority of key facilities considered necessary for a sustainable development.
15. The submissions indicate the village has a modest number of shops, recreational facilities, a primary school and a bus service. I therefore consider the sites are in a sustainable location. The proposed developments would offer some benefits providing additional housing that would contribute towards the local housing supply and in the case of Appeal A some affordable housing. Any future occupants of the proposed dwellings would provide some support for the local facilities and services albeit the social and economic benefits would be more limited for Appeal B. These social and economic benefits provide support for the proposals.
16. The Council's Strategic Housing Land Availability Assessment 2013 (SHLAA) identified the application sites as 'part suitable' for residential development. It found the frontage to New Road could be suitable for housing but that developing the remainder of the site to the rear would have a harmful effect on the landscape and visual amenities and would be out of character with the building line of the village. The appellant does not agree with this conclusion and considers the assessment did not take account of some of the fundamental benefits of redeveloping the site and also the well defined nature of the field with its boundary features. I have reached my own view on these matters, having regard to all the evidence before me.
17. LP Policy GP35 seeks to ensure building tradition, materials and design reflect those predominantly used in the locality but as the proposals are in outline these would be matters that would be considered at a subsequent time should these appeals be allowed. However, the policy also seeks to ensure new development respects and compliments the physical characteristics of the site and surroundings, the form of the locality, the natural qualities and features of the area and important public views and skylines.
18. The sites are presently open, with a few modest structures. The existing edge of the settlement is quite distinct and the appearance and character of the sites is clearly that of the countryside which is outside and visually distinct from the main built up area. Appeal A proposes a substantial development that would extend the built area up to the existing hedge that runs along the north-eastern and north-western boundaries. Given the configuration of the site all the proposed dwellings would be located to the rear of the boundaries of the existing properties that are located along the north-eastern side of New Road. Although there is a greater depth of development along some parts of the south-western side of New Road the proposal would represent a substantial extension of the built up area into open land on the

opposite side of the road. The development would not, therefore, respect the built form of the locality along the north-eastern side of New Road that predominantly comprises a single line of dwellings located along the road frontage.

19. The plans submitted with the Appeal A indicate the existing hedges would be retained and enhanced and that details of landscaping would be subject to further details being submitted. The existing hedgerows are predominantly deciduous and at the time of my visit much of the site was still visible from the surrounding area. I am therefore not persuaded that landscaping and enhancement of the existing boundary treatment would screen the development which would appear as a significant intrusion into the open countryside, particularly as seen when approaching the settlement from the north-west or from nearby footpaths.
20. In respect of Appeal B, the submissions indicate that the front part of the site has been identified as a housing site. The Council's resolution to grant outline permission for the 6 dwellings along the road frontage is also a material consideration. The proposal would add a further 3 dwellings along the road frontage and would extend the built up frontage up to the existing hedge along the north-western boundary. Although the extra dwellings would extend beyond the limit of the existing development on the opposite side of New Road it would retain the linear form of development that is typical of the area adjoining the site. Furthermore, the extension of the length of developed frontage is not significant enough to make the impact on the character of the road unacceptable. As Appeal B would retain the linear form and, (unlike Appeal A), would not introduce development to the rear, I therefore consider any effect on the character and appearance of the countryside to be acceptable.
21. In support of Appeals A and B the appellant also states the developments would not lead to a loss of high grade agricultural land or encroach significantly on the gap between Weston Turville and Aylesbury or Aston Clinton. They could also be delivered within 5 years making a contribution towards the housing land supply, including for Appeal A some affordable housing, as well as delivering economic benefits. Interested parties have raised a number of matters in respect of both Appeals A and B and those relating to the first main issue have been taken into consideration above.
22. In respect of Appeal A, having carefully considered all the matters raised, including the lack of a 5 year housing land supply, the Framework and the benefits identified, I conclude that the harm identified is not outweighed by these matters. Appeal A would represent a substantial development that would significantly intrude into the countryside and which would not reflect the form of nearby development. Appeal A therefore conflicts with LP Policy GP35.
23. In respect of Appeal B, the proposal represents a very modest extension to a previously approved, but not yet implemented development. Given its linear form that would reflect that of nearby development I consider the development would comply with LP Policy GP35.

Financial contributions

24. Prior to the determination of the appeals the appellant submitted signed and dated Unilateral Undertakings to provide financial contributions towards education, sport and leisure provision.
25. In accordance with paragraph 204 of Framework and Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 any obligations sought in an undertaking must be necessary, directly related and fairly and reasonably related in scale and kind to the development proposed.
26. The Buckinghamshire County Council Guidance on Planning Obligations for Education Provision sets out the reasoning and justification for contributions towards education for new residential development. The Guidance identifies that there is an existing shortage, or that there will be deficit in capacity within 5 years, of both primary and secondary places across all parts of the county. Furthermore, additional information provided by the County Council identifies the contributions are specifically required for a 'bulge class' at Wendover Church School and expansion of John Colet School. As the proposals would lead to an increase in the need for school places the contributions are necessary and directly related to the development. The amount payable is based on a formula which takes account of the type of accommodation provided and therefore is reasonable in terms of scale and kind.
27. LP Policy GP88 seeks to ensure new residential development provides contributions towards sport and leisure facilities. The Supplementary Planning Guidance entitled Sports and Leisure Facilities 2004 (SPG) sets out an analysis of need and provision. The submissions in respect of Appeal A and Appeal B indicate the contributions would be used for improvements to the recreation and sports area in Weston Turville in accordance with locally identified needs. The additional dwellings would increase the number of persons living in Weston Turville and the demand for sports and leisure facilities. Consequently, I consider the contributions towards sport and leisure facilities are necessary, directly related to the proposed developments and fairly and reasonably related in scale.
28. The Undertaking submitted for Appeal A does not include any provisions relating affordable housing although the submissions suggest that this could be achieved by the imposition of a planning condition if the appeal were to be allowed. There is no evidence from any party that the obligations would conflict with the restrictions on pooling contained in regulation 123 of the CIL Regulations.
29. On the basis of the submissions I conclude in respect of Appeal A and Appeal B that the Unilateral Undertakings comply with Regulation 122 and I have taken the Undertakings in account in determining the appeals. However, in respect of Appeal A neither the Undertaking nor the potential condition relating to affordable housing provision outweighs my conclusion on the first main issue.

Other matters

30. An ecological report was submitted with the proposals. It concluded the sites were of limited ecological value and that the majority of boundary vegetation would be retained. It indicated the developments could incorporate a range of measures that would ensure no adverse impact on local wildlife using the site. An outline drainage strategy also concluded that it would be possible to provide a solution to drain the site.

31. Interested parties have raised a number of matters in respect of both proposals. Those that relate to the main issues have been considered above. Other matters raised concern the loss of historic ridge and furrow countryside, cumulative impact on local infrastructure and facilities, lack of local jobs and transport, increased traffic, precedent and the intrusive impact on properties opposite the site.
32. The Council has undertaken extensive consultations in respect of both proposals and the County archaeologist, whilst acknowledging there are well developed ridge and furrow earthworks on the site, has not however objected to the proposals subject to the imposition of conditions on any permission. The Education Authority has requested financial contributions towards education provision. The access is a reserved matter so would be the subject of a further consideration if the appeals are allowed. I have considered the matter of precedent but as the particular specific site and development circumstances are unlikely to be replicated elsewhere and each proposal must be determined on its merits I do not consider that in allowing Appeal B that this would lead to harmful development elsewhere.
33. As part of my visit I viewed the sites from the front of properties that are opposite the sites. A vehicular access to the site would result in a section of existing hedge along the site frontage being removed. However, the landscaping is a reserved matter, and if the appeals are allowed further details would be required to be submitted to and approved by the Council. Furthermore, the layout and scale of the developments would also be subject to further consideration and the distance between the existing dwellings opposite and the Appeal B site boundary would be similar to that which exists further along New Road.

Conditions

34. In respect of Appeal B the Council has requested a number of conditions be imposed if the appeal is allowed. In respect of the standard outline conditions the Council has requested the time limits be reduced as the development is being advanced to meet the current shortfall in housing. As the appellant has also sought to justify the development on the grounds that it would contribute to the District's supply of housing I do not consider this to be unreasonable.
35. I consider that to ensure the development provides a satisfactory appearance that conditions are necessary regarding: the submission of all external materials, soft and hard landscaping; the replanting of any trees that fail within 5 years, tree protection measures; all means of enclosure; and slab levels. To ensure the protection of biodiversity and to safeguard any archaeological evidence on the site conditions are required regarding the submission of ecological mitigation and enhancement and a scheme of archaeological investigation.
36. To ensure the development does not contribute to water run off or flooding a condition requiring the submission of the proposed means of disposal of foul and surface water drainage is necessary. To ensure highway safety is not prejudiced conditions are required regarding the provision of the new access, visibility splays, parking and vehicle manoeuvring space and footways.

Conclusion

37. For the reasons given above I conclude that Appeal A should be dismissed and Appeal B should be allowed.

Sarah Stevens

INSPECTOR

Richborough Estates

Appeal B: Appeal Ref: APP/J0405/W/15/3027979

Schedule of Conditions

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the Local Planning Authority not later than 18 months from the date of this permission.
- 3) The development hereby permitted shall take place not later 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) No development shall take place until samples/details of the materials proposed to be used on the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out using the approved materials unless otherwise agreed in writing by the Local Planning Authority.
- 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. The approved landscaping scheme shall be carried out not later than the first planting season following the first occupation of the last of the building(s) to be occupied or the completion of the development, whichever is the sooner.
- 6) Any tree or shrub which forms part of the approved landscaping scheme which within a period of five years from planting fails to become established, becomes seriously damaged or diseased, dies or for any reason is removed shall be replaced in the next planting season by a tree or shrub of a species, size and maturity to be approved by the Local Planning Authority.
- 7) No site clearance works or development shall take place until there has been submitted to the Local Planning Authority for their approval a scheme showing the type, height and position of protective fencing to be erected around each tree or hedge to be retained. Unless otherwise agreed in writing by the Local Planning Authority this shall comprise a vertical and horizontal framework of scaffolding or post and rail fencing, to a height of 1.5 metres, well braced to resist impacts and supporting either cleft chestnut pale or chain link fencing and sited at a minimum distance from the tree equivalent to the crown spread.

No site clearance works or the development itself shall be commenced until such a scheme is approved by the Local Planning Authority and thereafter the development hereby permitted shall only be carried out in accordance with that scheme. The area surrounding each tree/hedge within the approved protective fencing shall remain undisturbed during the course of the works, and in particular in these areas:

1. There shall be no changes in ground levels;

2. No materials or plant shall be stored;
 3. No buildings or temporary buildings shall be erected or stationed.
 4. No materials or waste shall be burnt nor within 20 metres of any retained tree; and.
 5. No drain runs or other trenches shall be dug or otherwise created, without the prior written consent of the Local Planning Authority.
- 8) No development shall take place until details of all screen and boundary walls, fences and any other means of enclosure have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter only be carried out in accordance with the approved details and the buildings hereby approved shall not be occupied until the details have been fully implemented.
- 9) The details to be submitted for approval in writing by the Local Planning Authority in accordance with Condition 1 shall include details of the proposed slab levels of the building(s) in relation to the existing and proposed levels of the site and the surrounding land, with reference to fixed datum point. The building(s) shall be constructed with slabs at levels that have been approved in writing by the Local Planning Authority.
- 10) The details to be submitted in accordance with condition 1 above shall include details of an ecological mitigation and enhancement strategy including an ongoing management plan in accordance with the recommendations set out in the Ecological Report (reference 153022, dated February 2015) prepared by AA Environmental. The development shall be carried out in accordance with the approved details.
- 11) No development shall take place until the applicant, or their agents or successors in title, have secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has first been submitted to and approved in writing by the Local Planning Authority.
- 12) No development shall take place until details of the proposed means of disposal of foul and surface water drainage have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme of drainage.
- 13) No other part of the development shall begin until the new means of access has been sited and laid out in accordance with the approved drawing and constructed in accordance with Buckinghamshire County Council's guide note "Private Vehicular Access Within Highway Limits" 2013.
- 14) 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.
- 15) The details to be submitted for the approval of the Local Planning Authority in accordance with condition 1 shall include a scheme for parking, garaging 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 development hereby permitted is occupied and that area shall not be used for any other purpose.

- 16) The details to be submitted for the approval of the Local Planning Authority in accordance with condition 1 shall include details of a 2m wide footway to serve the site and connect to the existing footway on New Road. The approved scheme shall be implemented and made available for use before the development hereby permitted is occupied.

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