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## Appeal Decision

Site visit made on 30 November 2020

**by Bhupinder Thandi BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 17 February 2021**

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### **Appeal Ref: APP/J0405/W/20/3257840**

#### **Land at Lower Road, Haddenham**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Rectory Homes Limited against Buckinghamshire Council - Aylesbury Area.
  - The application Ref 19/02145/APP, is dated 4 June 2019.
  - The development proposed is erection of 43 two and two and a half storey flats and houses, including 35% affordable housing, together with a proposed new access off Lower Road, parking, landscaping and all enabling works.
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#### **Decision**

1. The appeal is dismissed and planning permission is refused.

#### **Procedural Matters**

2. On 1 April 2020 Aylesbury Vale District Council merged with a number of other local planning authorities into Buckinghamshire Council. Aylesbury Vale District Council is now called Buckinghamshire Council-Aylesbury area. For the purposes of this appeal the development plan remains in place for the area.
3. The appellant has produced a signed and dated planning obligation by Unilateral Undertaking (UU) under Section 106 of the Town and Country Planning Act 1990. The UU would ensure the provision of a sustainable drainage system, affordable housing and financial contributions towards the Bus Stop Project; primary education; secondary education; highways; sport and leisure and a Traffic Regulation Order.
4. The appellant has provided a revised 'Affordable Housing Tenure Plan' setting out an affordable housing mix reflecting the comments of the Council's Affordable Housing Officer. I have paid regard to the document in consideration of the appeal and I am satisfied that no interested parties have been prejudiced by my approach.

#### **Planning Policy Context**

5. The development plan consists of saved policies in the Aylesbury Vale District Local Plan (AVDLP) (2004) which covers the period to 2011. The emerging Vale of Aylesbury Local Plan (VALP) has been examined in public and the examining Inspector has set out their interim findings. From the evidence before me there

are relevant policies which may well be subject to further consultation and modification. As such, I attach limited weight to the policies contained within the emerging VALP.

6. The appellant contends that the policies in the AVDLP should be considered to be out of date due to their age. Despite the date of adoption of the AVDLP, the National Planning Policy Framework (the Framework) sets out that existing policies should not simply be considered out of date because they were adopted prior to its publication. The Framework sets out in paragraph 213 that due weight should be attached to development plan policies dependent upon their degree of consistency with it.
7. Of the AVDLP Policies referred to by the Council Policies GP.35 and GP.38 relate to the effect of a development upon the character and appearance of an area. The policies relate to design, form, materials and landscaping and the effect upon the characteristics of the site and its surroundings and are relevant to my decision. Notwithstanding their age, in my view, they are consistent with the Framework which seeks the creation of high quality buildings and places and the contribution to and enhancement of natural and local environments.
8. Policies GP.2, GP.86, GP.87, GP.88, GP.90, GP.91 and GP.94 of the AVDLP relate to the provision of affordable housing and other planning obligations and infrastructure. These policies are consistent with the Framework which sets out that Plans should set out the contributions expected from development.

## **Main Issues**

9. Mindful of the Council's putative reasons for refusal the main issues are:
  - Whether the appeal site is an appropriate location for new housing having regard to the local housing strategy;
  - The effect of the proposed development upon the character and appearance of the area; and
  - Whether the financial and affordable housing contributions are required to make the proposal acceptable in planning terms.

## **Reasons**

### *Housing strategy*

10. The Framework sets out that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies or against their local housing need where the strategic policies are more than five years old<sup>1</sup>. Although there may be housing constraints in other parts of the Council's area they submit that they can demonstrate five years supply of deliverable housing sites. This is not disputed by the appellant.
11. The saved policies of the AVDLP are not relevant in respect of housing supply and strategy and I can only give the policies in the emerging VALP limited weight. As such, in respect of this matter the Framework is a consideration I must give regard to.

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<sup>1</sup> Paragraph 73

12. The appeal site comprises an agricultural field neighbouring existing housing forming the edge of Haddenham. The settlement is a suitable location for new development identified as one of the district's strategic settlements. It benefits from a variety of services and facilities to meet residents' day to day needs. These services and facilities are accessible from the site by foot and by motor vehicle.
13. Notwithstanding development taking place on the ground near to the appeal site, existing planning permissions and allocated housing sites in the emerging VALP, maintaining a deliverable supply of housing land supply is not a ceiling, but rather a minimum figure. The Framework seeks to boost the supply of housing including through windfall sites.
14. In my view, the proposed development would be of a scale to enhance or maintain the vitality of Haddenham through the provision of open market and affordable housing and from residents contributing towards services and facilities in the village.
15. The appellant has undertaken their own housing needs assessment indicating that open market housing delivery in the area and in the pipeline is imbalanced and focused on the delivery of larger units. The appeal scheme seeks to redress this through the delivery of 1 and 2-bedroom units aimed at first time buyers.
16. The Council, however, contend that the proposed housing mix focused on smaller units would not reflect local need. They state that the overall mix should include less flats and more 2 and 3-bedroom houses as outlined in the Buckinghamshire Housing and Economic Development Needs Assessment (HEDNA).
17. The HEDNA does not have the standing of planning policy. However, in my view it provides an up to date and robust analysis of housing needs in the Council area and I attach significant weight to its findings. I find that the appellant's assessment whilst an indication of the size and mix of housing in the pipeline does not provide an objective analysis of the need in the area. In my judgement its findings are not so compelling so as to lead me to depart from the HEDNA's findings in relation to local housing need.
18. Haddenham is a suitable location for new development and the proposed development would serve to enhance and maintain its vitality. The proposed development would deliver 35% affordable housing and the revised affordable housing mix would be akin to that suggested by the Council's Affordable Housing Officer. However, the proposed development would not reflect local housing need, particularly with regard to open market housing undermining the housing strategy for the area. This would be contrary to paragraph 61 of the Framework which sets out that the size, type and tenure of housing needed for different groups in the community should be assessed.

#### *Character and appearance*

19. The appeal site comprises an agricultural field located on the edge of Haddenham and neighbours existing housing in the form of linear development along Stanbridge Road and more modern developments to the south which has a greater depth. Despite this depth the more informal layouts and spacing

- between houses results in spacious and porous developments on the edge of the village.
20. When approaching Haddenham along Stanbridge Road from the south modern housing developments either side of the road have resulted in a suburban appearance. However, approaching along Ford Road from Aylesbury open countryside is the prevailing characteristic of the area. Notwithstanding the existing development on the edge of the village the open nature of the appeal site contributes to the rural character of the surrounding open countryside, despite it not being subject of a local or national designation.
  21. I acknowledge that the proposal would neighbour existing development and its appearance would be similar to nearby dwellings. However, its scale and layout combined with its position behind existing linear development leapfrogging the neighbouring development would result in a greater depth of built form both visually and physically.
  22. The affordable housing and apartment blocks located within the centre of the site by virtue of the limited separation between buildings and the extensive hard surfaced parking area would give rise to the perception of an intensively developed and urban form of development. As such it would be at odds with the prevailing rural character especially when approaching the village from Aylesbury.
  23. Notwithstanding the landscaping buffer along the boundaries the development would be very apparent from the surrounding area and would result in an unacceptable encroachment into open countryside.
  24. Whilst the proposed development would create a new edge to Haddenham it would be an uncharacteristic intensely developed urban edge that would not be sympathetic to the surrounding rural character and the more spacious developments to the south.
  25. I acknowledge that the Framework promotes the efficient use of land. However, it also recognises that development should be sensitive to its surroundings.
  26. I conclude that the proposed development would adversely affect the character and appearance of the area. It would be contrary to Policies GP.35 and GP.38 of the AVDLP which, amongst other things, require the design of new development proposals to respect and complement the physical characteristics of the site and surroundings and should include landscaping proposals designed to help buildings fit in with and complement their surroundings.
  27. It would also be contrary to paragraphs 127 and 170 of the Framework which, amongst other things, seek to ensure that developments add to the overall quality of an area, are sympathetic to local character and history, including the surrounding built environment and landscape setting and for decisions to recognise the intrinsic character and nature of the countryside.

#### *Planning obligations*

28. The appellant has submitted a signed and dated UU as the mechanism by which to secure appropriate drainage, affordable housing and financial contributions towards education, highway and public transport and sports and leisure.

29. I am satisfied that the contributions would satisfy the tests for planning obligations set out in Regulation 122 of the Community Infrastructure Levy Regulations (2010). As such, I find that the submitted UU would overcome the Council's fourth putative reason for refusal.
30. In this respect the proposed development would accord with Policies GP.2, GP.86, GP.87, GP.88, GP.90, GP.91 and GP.94 of the AVDLP which, amongst other things, seek a minimum of 30% affordable housing and contributions towards infrastructure including outdoor play space and equipped play areas, sports fields and facilities, informal amenity spaces and community facilities.

### **Planning Balance**

31. There is no dispute between the two main parties that the Council can demonstrate a five-year supply of deliverable housing land. Therefore, paragraph 11 d) is not engaged by this particular factor.
32. The appellant contends that paragraph 11 d) should apply because the AVDLP is time expired. As stated above that alone is not a basis to find the policies to be out-of-date. My decision is taken on the basis of the Framework which sets out specific circumstances in which paragraph 11 d) is engaged. It is not engaged by the date of the policies in the AVDLP. Whilst there are no relevant policies in relation to housing strategy Policies GP.35 and GP.38 are relevant and consistent with policies in the Framework. As such paragraph 11 d) of the Framework is not engaged because the most relevant policies for determining the application are not out of date. For these reasons, the planning balance set out in Section 38(6) of the Planning and Compulsory Purchase Act is the one to be applied in this case.
33. The construction of open market and affordable houses would make a reasonable contribution towards housing supply in the area. Although the site is located within open countryside it is in a location within a reasonable distance of a range of day to day services. Future occupiers would be able to reach these on foot, providing them with transport choice and an alternative to car use.
34. The construction of 43 dwellings would provide jobs albeit this would be largely short term limited to the construction phase. Future occupiers would help to maintain or enhance the vitality of services and facilities in the village.
35. The provision of housing, and affordable housing in particular, and the contribution that future occupiers would make to Haddenham are factors in favour of the proposal. However, because the Council complies with national policy in respect of housing delivery I afford these matters moderate weight.
36. The proposed development would not adversely affect highway safety, increase the risk of flooding and would not unduly affect trees, best and most versatile agricultural land, local wildlife habitats or protected species. However, these are matters of neutral consequence.
37. The planning obligations would contribute towards supporting or improving local facilities and infrastructure. However, the obligations would essentially mitigate the impact of the proposed development in planning terms. As such, these are matters of neutral consequence in the overall balance.

38. On the other hand, I have found that the proposed development would harm the rural character and appearance of the area resulting in conflict with Policies GP.35 and GP.38 of the AVDLP. This conflict carries significant weight in my decision.
39. I have no reason to make a decision other than in accordance with the development plan. I conclude that the proposed development conflicts with the development plan, when read as a whole. There are no other considerations that outweigh that conflict.
40. In any event even if I did engage paragraph 11 d) I consider that the adverse impacts of the scheme would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole.

### **Conclusion**

41. For the reasons set out the appeal does not succeed.

*B Thandi*

INSPECTOR