



Appeal Decision

Site visit made on 7 November 2023

by Stuart Willis BA Hons MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th November 2023

Appeal Ref: APP/J0405/W/23/3317499

135 Station Road, Quainton, Buckinghamshire HP22 4BX

- 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 Mr Mark Bristow of Burgundy Developments Ltd against the decision of Buckinghamshire Council - North Area (Aylesbury).
 - The application Ref 22/00979/AOP, dated 17 March 2022, was refused by notice dated 7 November 2022.
 - The development proposed is demolition of existing dwelling house, stables and barn and the erection of 12 new replacement dwellings and garages.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Outline planning permission is sought with only access and layout to be considered. Other than details relating to these matters I have regarded all other elements as illustrative. I have determined the appeal on this basis.
3. During the course of the appeal, a planning obligation was submitted by the appellant relating to the provision of affordable housing. This is discussed in the relevant main issue below.
4. An amended Site Layout Plan was submitted with the appeal that made only a minor change to one of the garages. Additional details relating to differing aspects of biodiversity was also provided. The Council and third parties have had opportunity to comment on the amended and new information. Therefore, no party would be prejudice by my taking this evidence into account in my reasoning.

Main Issues

5. The main issues are:
 - Whether the appeal site is a suitable location for the proposal, with particular regard to the local development strategy,
 - The effect of the proposed development on biodiversity,
 - The effect of the proposed development on the character and appearance of the area,
 - The effect of the proposed development on the living conditions of the occupiers of 133a and 135a Station Road (133a and 135a), with particular regard to noise and disturbance,

- Whether the proposed development would provide appropriate living conditions for future occupiers of plots 6 and 7, with particular regard to noise and disturbance,
- Whether the proposed development makes appropriate provision for affordable housing; and
- Whether the proposed development makes appropriate provision for education and leisure facilities.

Reasons

Whether suitable location

6. Policy S1 of the Vale of Aylesbury Local Plan (VALP) requires schemes to comply with the principles of sustainable development set out in the National Planning policy Framework (Framework) and contribute positively to meeting the vision and strategic objectives of the area.
7. Policy S2 of the VALP sets out the spatial strategy for growth. It refers to housing growth in medium villages, which includes Quainton, being set at a scale in keeping with the local character and setting. This growth will be encouraged to help meet local housing and employment needs and to support the provision of services to the wider area. Outside of the specified locations in the policy it states that elsewhere in rural areas, housing development will be strictly limited.
8. Policy S3 further considers the scale and distribution of development and states that development in the countryside should be avoided. This is especially, although not exclusively, where it would compromise the character of the countryside between settlements. Policy S7 encourages the reuse of previously developed land subject to other considerations.
9. Policy D3 of the VALP refers to larger scale development beyond allocated sites and small-scale development. These are only permitted where allocated sites are not being delivered at the anticipated rate. Such proposals need to demonstrate how the scheme could be delivered in a timely manner and contribute to the sustainability of the settlement. Compliance with several further criteria is required, including where there is a made neighbourhood plan which defines a settlement or development boundary, the site should be located entirely within that settlement boundary.
10. A settlement boundary is set out in the Quainton Neighbourhood Plan 2015 – 2033 (NP). Policy QP1 of the NP sets out the spatial strategy for Quainton and states that apart from the special circumstances set out in paragraph 80 of the Framework there is a presumption against development of new homes outside the settlement boundary. The supporting text states that the NP indicates the objectives of the strategy are to protect the intrinsic character and beauty of the countryside whilst allowing for sustainable growth within the settlement boundary to meet local housing needs over the Plan period.
11. The appeal site is partly previously developed land but subject to other policies in the plan. The site is adjacent to the settlement boundary, plot depths vary nearby and there appears to be reasonable access to services and facilities. However, while changes may have been made previously, the site is located outside of the settlement boundary and regardless of the appearance of the

site, is in the countryside for the purposes of the policies set out above. The VALP is clear that in such locations housing development will be strictly limited and avoided. While Quainton, as a medium village, is identified for some growth, the site is not allocated for development in the VALP or NP. Although it would add to the provision of housing and there is no maximum limit for this, it has not been shown that the allocated sites are not being delivered at the anticipated rate or that local housing needs are not being met.

12. While the site is not isolated given its proximity to other buildings, Policy QP1 nevertheless requires any schemes outside the settlement boundary to meet one of the exceptions under paragraph 80 of the Framework. From the evidence before me, the scheme does not meet any of these or any other exceptions set out in the development plan for housing outside of a settlement boundary.
13. Therefore, the appeal site would not be a suitable location for the proposal with regard to the local development strategy. It would be contrary to Policies S1, S2, S3, S5, S7 and D3 of the VALP and Policy QP1 of the NP where these set out the development strategy for the area and list exceptions where development in such locations would be permitted.

Biodiversity

14. ODPM Circular 06/2005 states that the presence of a protected species is a material consideration when considering a development proposal that, if carried out, would be likely to result in harm to the species or its habitat. It goes on to state that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.
15. The Habitats Directive requires a system of strict protection for European Protected Species (EPS). In the absence of an application for an EPS Licence, I am required to have regard to the requirements of the Habitats Directive in the determination of this appeal and consider whether there would be a reasonable prospect of a licence being granted.
16. The appeal site is located within a red impact zone for great crested newts (GCN). As well as the pond on site there are others nearby and records of GCNs close to the site.
17. An Ecological Impact Assessment and a letter from Samsara Ecology provided details relating to GCNs. These confirmed the presence of GCN DNA at the site. It also identified that there is the potential for the loss of grassland habitats resulting in GCNs being harmed, injured or killed and that any improvements to the pond could result in temporary loss of breeding habitat.
18. Avoidance measures including the timing of the works, storage of materials and fencing are suggested. However, it is indicated that a licence would still be required, and suitable mitigation would be determined during the licence application. From the evidence before me a Low Impact Class Licence would not be suitable given the location and extent of the proposal.
19. The pond would likely become less suitable for GCNs. It would result in the pond becoming more isolated from other habitat being largely surrounded by development at the site and adjacent.

20. The Ecological Impact Assessment also made reference to badgers. However, the findings of the preliminary survey have not been provided. Therefore, it is not clear if they are present, and if so, what mitigation would be required and if it could be appropriately secured.
21. The proposal would lead to certain economic and social benefits related to the build and occupation of the dwellings. However, I have also found the scheme would be contrary to the local development strategy. As such, the proposed development would not be in the public interest.
22. In the absence of any clear evidence in relation to alternatives to the proposal, I cannot be satisfied that alternative solutions that would result in the protection of the existing habitat and species could not be achieved.
23. While there is a cost involved in making the licence application, no detailed information relating to the mitigation for GCNs. The lack of information relating to badgers also means it is unclear whether mitigation is needed. Therefore, I cannot be sure the scheme could be implemented in such a way as to prevent harm to the protected species and their habitat.
24. On the evidence before me, there would not be a reasonable prospect of a licence being granted.
25. The Biodiversity Net Gain report indicates that there would be a loss of modified grassland while the pond and tall herbs around it would be retained. Boundary hedgerows are also to be retained and planting proposed to replace features to be removed. However, the layout within this report does not reflect the appeal scheme. Errors in the calculation of the metric document add further ambiguity. Therefore, while an outline application, and landscaping is a reserved matter, I cannot be certain that the findings are accurate and net gain could be achieved. The level of uncertainty means the imposition of a condition relating to further details being provided would not be appropriate.
26. Consequently, the proposed development would harm biodiversity. It would therefore conflict with Policy NE1 of the VALP and Policy QP9 of the NP where they, amongst other things require net gain and schemes to protect, conserve or enhance the natural environment. Moreover, it would fail to accord with the Framework where it seeks to minimise impacts on and providing net gains for biodiversity.

Character and appearance

27. There is linear development along the section of Station Road near the appeal site. However, there is variation in the depth of development with buildings of differing uses being located behind the gardens of the frontage plots. While Seechfield is of less depth and further along Station Road, it has a cul-de-sac arrangement. Moreover, the development adjacent to the appeal site consists of several streets with properties behind others and a comparable depth of development.
28. Although the layout of these examples does not mirror that of the appeal scheme, they demonstrate that the presence of buildings behind the frontage dwellings is not untypical. Furthermore, while plots sizes would be smaller than the frontage ones adjacent, there is some variation in the area and it would not be dissimilar to the new estate adjacent. Therefore, the proposed layout and

- presence of dwellings to the rear of others would not be discordant with the pattern of development.
29. The introduction of the dwellings, the road and other domestic paraphernalia would undoubtedly alter the appearance of the site. However, the site is not devoid of built form at present. There is a barn, stable building and fencing, along with a menage area and hard surfacing with the driveway extending up to these buildings. As such, it does not have the appearance of open fields like much of the land beyond the site. The appeal scheme would not extend beyond the depth of the buildings already on the site and maintain the field pattern behind.
30. The scheme would be seen from the street and nearby properties with some limited wider views. Nevertheless, it would be seen in many views in the context of adjacent development which has a comparable depth rather than appearing separate or extending significantly beyond the existing built form. Landscaping is a reserved matter. Nonetheless, boundary landscape features could potentially be retained, and additional planting take place in order to create clear separation between the scheme and the fields beyond.
31. The pond would largely be enclosed by the adjacent development and that proposed as part of this scheme. However, whatever the ownership of this area, in terms of character and appearance, it would be retained and provide a break in the built form at the site. The area is partly overlooked by properties behind and, subject to appropriate window positioning at the proposed properties, would ensure there was natural surveillance of the pond. No policy requirements for the pond to have public access has been put before me or that there currently is.
32. Consequently, the proposed development would not harm the character and appearance of the area. The scheme would accord with Policies D3, BE2, BE4 and NE4 of the VALP as well as QP3 of the NP. These, in part, seek developments that are in keeping with existing form, local distinctiveness, minimise impact on visual amenity and be of appropriate density.
33. It would also comply with characteristics C1, B2, P1, P2 and P3 of the National Design Guide where it requires schemes to relate well to their context, be of appropriate form, providing safe spaces. It would accord with the Framework where it seeks to ensure developments are sympathetic to local character.
34. Policy BE3 of the VALP is not directly applicable to this main issue as it relates to residential amenity.

Living conditions – 133a and 135a

35. At 135a, the biggest window on the side elevation nearest the appeal site served the kitchen which included a table and chairs. Consequently, it is likely that the occupiers would spend a reasonable amount of time in that room. At 133a, windows facing the proposed access road were obscured glazed and not large indicating that it would be unlikely the rooms they serve would be used for long periods. At my visit I found that the rear of these properties was quieter and more private than the fronts.
36. Nevertheless, while the access road would run along the whole of the site boundary of the neighbouring properties, the proposed access road would be set in from those boundaries with space for planting. This would reduce any

noise and disturbance from activities along the access road. It would also be further from the side elevation of 135a than the existing driveway for the appeal property. There would already be some movements experienced close to or behind the adjacent properties and their gardens with the existing access extending back to the barn and stables. In addition, the presence of boundary treatments would reduce the noise experienced by occupiers in their gardens and from within the properties.

37. Although the proposal would lead to an increase in vehicle and pedestrian movements and therefore more noise and disturbance, they would not be substantial or at unacceptable levels given the number of properties proposed.
38. Lights from the comings and goings of vehicles at the site would likely be noticeable by adjacent occupiers. However, land levels are relatively flat at the site and the adjacent land. As such, while there would be additional movements taking place to the side and behind the adjacent properties, boundary treatments could be erected, planted or retained to help reduce any disturbance from vehicle lights. Moreover, given the number of dwellings proposed, there would not be a substantial number of movements.
39. As such, the proposed development would not harm the living conditions of the occupiers of 133a and 135a with regard to noise and disturbance. It would comply with Policy BE3 of the VALP and Policy QP3 of the NP where they aim to prevent unreasonable harm to or adversely affect the amenity of existing residents. In addition, it would accord with the Framework where it seeks a high standard of amenity for existing users.

Living conditions – future occupiers

40. There is no mechanism before me to limit the amount or type of journeys that would take place on the access between plots 6 and 7. However, this would be a similar arrangement to the current one at the site where the access passes along the boundary with 135a. There is no compelling evidence before me that this existing arrangement causes unacceptable harm to neighbouring residents or that there would be any considerable levels of traffic using this new access. Additionally, subject to appropriate details of boundary treatments and the positioning of windows at these plots, any noise or disturbance could further be reduced.
41. Therefore, the proposed development would provide appropriate living conditions for the future occupiers of plots 6 and 7 with regard to noise and disturbance. The proposal would comply with Policy BE3 of the VALP and Policy QP3 of the NP where they seek a satisfactory level of amenity for future residents and not adversely affect neighbouring properties. In addition, it would comply with the Framework where it seeks a high standard of amenity for future users.

Affordable Housing

42. Policy H1 of the VALP requires residential developments of 11 or more dwellings gross to provide a minimum of 25% affordable homes on site. It states that the Housing and Economic Development Needs Assessment has identified the level of need for affordable housing in the area.
43. Policy H6a of the VALP requires new residential development to provide a mix of homes to meet current and expected future requirements. Policy QP4 of the

NP states that schemes should reflect the housing needs in the village for two and three bedroom properties and that in developments of 4 or more homes 25% should be able to be modified for use by older residents.

44. A planning obligation was provided as part of the appeal by the appellant securing 3 properties as affordable housing units and that the provision be in line with the Council's policy on tenure. On the evidence before me, this obligation would be fairly and reasonably related to the development proposed and it passes the statutory tests. The provision of affordable housing would be a benefit that, given the identified need, I give moderate weight to.
45. The proposal therefore would make appropriate provision for affordable housing and accord with Policies H1 and H6a of the VALP and Policy QP4 of the NP.

Education and leisure facilities

46. Planning Practice Guidance indicates that no payment of money or other consideration can be positively required when granting planning permission and that planning permission should not be granted subject to a positively worded condition that requires the applicant to enter into a planning obligation. The details before me do not indicate that the exceptional circumstances exist where a negatively worded condition requiring a planning obligation or other agreement to be entered into could be used. Therefore, if meeting the relevant tests, an alternative mechanism to secure contributions towards education and leisure facilities would be needed at the grant of planning permission regardless of whether the number of bedrooms were to be agreed.
47. Policy I2 of the VALP states that new housing development of more than 10 units will be required to meet the Council's adopted standards to secure adequate provision of sports and recreation facilities to meet the additional demand arising from new residential development.
48. A financial contribution calculated based on the Sport and Leisure Facilities SPG: Ready Reckoner has been requested. However, no specific details have been provided of what facilities there are in the area or how or where any contribution would be spent. In addition, there is no clear evidence provided identifying that the appeal scheme would result in problems arising from an existing shortfall or that there would be a shortfall as a result of the scheme.
49. Policy I3 of the VALP requires a financial contribution, subject to compliance with the CIL Regulations, to provide or enhance community facilities or community infrastructure on developments of more than 10 homes. Policy I5 confirms that schools are considered community infrastructure.
50. The Council's Education response requested a financial contribution relating to expansion of both existing secondary schools in the area. The CIL compliance statement provided however refers just to the expansion of Waddesdon CE School or such other education project in the administrative catchment area of the Council. It has not been shown that there is currently a shortage of school places or that the schools would not be able to cope with additional demand. Given the uncertainty over where and on what the money would be spent, with reference to other education projects, I cannot be sure that the contribution would be directly related to the scheme.

51. The new housing would likely bring about greater demand for education and leisure facilities. Access to such facilities is also encourage in local and national policy. However, I have not been provided with sufficient detailed evidence to define the extent of any local deficiencies in leisure and education facilities or the effect that the appeal proposal might have on them. Nor has any detailed information been provided to show how and where the contributions would be spent.
52. A further contribution towards monitoring costs has also been requested. There is no breakdown of how this has been calculated and would relate in part to monitoring the education and leisure contributions discussed above.
53. Accordingly, on the evidence before me it has not been demonstrated that the contributions sought would be necessary to make the development acceptable or that they would be directly related to the development and fairly and reasonably related in scale and kind.
54. Consequently, the proposal would make appropriate provision for education and leisure. There would be no conflict with Policies I2, I3 and S5 of the VALP.

Other Matters

55. Following clarification of the size of parking spaces and the amendments to one of the garages the Council stated they no longer wished to pursue the refusal reason relating to parking. Sufficient on plot parking for the dwellings and spaces for visitors are provided. This would prevent any unacceptable increase of on street parking. Given the alignment of Station Road, as well as the internal road, appropriate visibility would be provided at the access. As a result of the number of properties proposed there would be no severe effects on traffic generation or the free flow of traffic. Were the appeal to be allowed conditions could be imposed to secure the above matters and management of construction traffic.
56. I do not have full details of the evidence before the Inspector for the previous appeal adjacent to the site. However, it related to a different number of units, larger site, contained on site open space with fewer main issues and was considered under a partly different policy context. As such, it is materially different to the scheme before me.
57. A 5-year housing land supply is not a maximum. The proposal would align with the Framework where it seeks to significantly boost the supply of housing and includes an element of affordable housing and where it states small and medium sized sites can make an important contribution to meeting the housing requirement of an area. There would also be benefits associated with the build and occupation of the properties to the local economy and there are some services and facilities nearby. Although there is limited information, the proposal would also likely result in benefits linked with additional planting and energy efficiency. Given the scale of the scheme, and that the scheme would, at least in part, relate to previously developed land, these benefits would be moderate.
58. The proposal would not give rise to harm to the character and appearance of the area or living conditions of existing or future residents. The lack of harm is a neutral factor. Notwithstanding this, while the scheme has been amended from the previous application at the site, there would be harm to biodiversity

and the scheme is contrary to the local development strategy. Development plan policies with regard to these matters are generally consistent with the Framework and the harm to them attracts significant weight.

Conclusion

59. For the reasons set out above, the proposal conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweighs the identified harm and associated development plan conflict.

60. Therefore, the appeal is dismissed.

Stuart Willis

INSPECTOR

Richborough