
Appeal Decision

Site visit made on 21 December 2015

by Grahame Gould BA MPhil MRTPI

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

Decision date: 23 December 2015

Appeal Ref: APP/J0405/W/15/3132272

Buildings at Nearton End, Nearton End, Swanbourne, Buckinghamshire MK17 0SL

- 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 outline planning permission.
 - The appeal is made by Mr and Mrs A Ford against Aylesbury Vale District Council.
 - The application Ref 15/01716/AOP is dated 19 May 2015.
 - The development proposed is demolition of workshop and other buildings, erection of four houses and associated works.
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Application for Costs

1. An application for costs was made by Mr and Mrs A Ford against Aylesbury Vale District Council. This application is the subject of a separate decision.

Decision

2. The appeal is allowed and planning permission is granted for the demolition of a workshop and other buildings, erection of four houses and associated works at the Buildings at Nearton End, Nearton End, Swanbourne, Buckinghamshire MK17 0SL in accordance with the terms of the application, Ref 15/01716/AOP, dated 19 May 2015 subject to the conditions listed in the schedule at the end of this decision.

Procedural Matters and Main Issues

3. The application has been submitted in outline form and seeks permission for four houses, with all matters, other than access, being reserved for future consideration. The application is accompanied by indicative/illustrative layout and elevation drawings and I have treated the details, other than access, shown on the aforementioned drawings as being purely indicative.
4. The Council failed to determine the appealed application and has not submitted an appeal statement. I have therefore used the appellants' submissions and the representations made by Swanbourne Parish Council and residents to formulate the main issues and I consider these to be:

- whether the appeal site is an appropriate location for residential development, having regard to national and local planning policy;
- the effect of the development on the character and appearance of the area, including any effect on the setting of the Swanbourne Conservation Area (the CA);
- the effect of the development on the living conditions for the occupiers of the adjoining properties; and
- whether there would be any adverse traffic generation implications.

Reasons

5. The application site comprises a former farmyard that is occupied by four buildings. One of the buildings is used by the appellants as the base for their farm equipment repair business, while the other buildings are used for some storage, with a dog groomers also occupying part of one of these. The appeal development would involve the construction of four dwellings, with vehicular access being derived via the existing access to the site. The indicative drawings suggest that the site might be developed on the basis of a courtyard type layout.

Whether an appropriate location for residential development

6. I am told that the appeal site lies outside the settlement boundary for Swanbourne identified by the adopted Aylesbury Vale District Local Plan 2004 (the Local Plan), a development plan for which some of its policies are subject to a saving direction issued by the Secretary of State. I am further advised¹ that Policies RA13 and RA14 of the Local Plan respectively address new development within and on the edge of villages. I note that the appellants contend that the Council cannot currently demonstrate the availability of a five year housing land supply (HLS) and in support of that proposition they rely on my colleague's decision for a site at Bourton Road, Buckingham².
7. In the absence of any evidence to the contrary from the Council I can only take it to be that it accepts it cannot currently demonstrate the availability of a five year HLS. In the case of proposals for residential development where there is no five year HLS, paragraph 49 of the National Planning Policy Framework (the Framework) advises 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."*
8. Having regard to the provisions of paragraph 49 of the Framework I take the exclusion of Policies RA13 and RA14 from those accompanying the Council's appeal questionnaire to mean that the Council is of the view that these policies affect the supply of housing and should be treated as being out of date for the purposes of the determination of this appeal. With part of the

¹ Paragraph 4.12 of the appellants' planning statement (May 2015)

² Appeal decision APP/J0405/W/14/3001948 dated 18 June 2015

Local Plan being out of date, the policies contained within the Framework are a material which I must take account of³ along with the Local Plan's policies that are not out of date.

9. Paragraph 14 of the Framework states that at heart of national policy there is a presumption in favour of sustainable development and in determining planning applications, where development plans are out of date, planning permission should be granted unless: any adverse impacts of doing would "significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole; or specific policies of the Framework indicate development should be restricted". There are three dimensions/roles to sustainable development, economic, social and environmental which are to be considered together (paragraphs 7 and 8 of the Framework).
10. Paragraph 55 of the Framework provides guidance on residential development in rural areas and advises, amongst other things, that "new isolated homes in the countryside should be avoided unless there are special circumstances, such as where there is an essential need for rural workers' accommodation. The application site lies in very close proximity to the eastern extremity of the built up part of Swanbourne and the proposed houses would be sited between existing dwellings. Accordingly in my opinion this development would amount to small scale infilling within Swanbourne and would not result in the provision of isolated homes in the countryside. It is also of note that part of the site, i.e. the workshop building, can be considered as being previously developed land for the purposes of the Framework. I, however, recognise that there are few employment, shopping and community facilities in Swanbourne, something which reduces the sustainability of the appeal development in transportation terms, a matter which I shall refer to in more detail under my fourth main issue.
11. The appeal development would result in some employment space in Swanbourne being lost, although I understand that the appellants intend to relocate to premises which they consider would be in a more suitable location. While the loss of employment space is unfortunate, the premises are not ideally located for a commercial use, given the narrow width of Nearnton End and Tattams Lane and I find this aspect of the appeal scheme to be unobjectionable under the economic dimension to sustainable development.
12. I am mindful of the previous appeal decision relating to this site, which dates back to 1996⁴. However, my colleague's decision was made against a somewhat different policy background and that decision is one which I find I can now attach limited weight to.
13. On this issue I therefore conclude that the general principle of redeveloping this site for residential purposes is unobjectionable. The development would make a modest contribution to providing housing in the Council's area, something that comes within the social dimension to sustainable development, a factor that attracts weight given the absence of a current five year HLS.

³ Paragraph 2 of the Framework

⁴ A decision referred to in a number of the representations received by the Council

Character and Appearance

14. The appeal site lies just outside the CA, which is characterised by attractive looking detached dwellings of varying ages and designs. While limited details relating to matters of layout, scale and appearance are currently available, there is no reason for me to believe that this site could not be developed in a manner that would be respectful of its context, i.e. one of a transition between the built up part of Nearnton End and the open countryside, which is also visible from public rights of way. In this regard I see no reason why the setting of the CA would not be preserved, not least because the development would involve the removal of agricultural buildings that possess no architectural merit.
15. On this issue I find that the appeal development would be in keeping with the character and appearance of the area and that there would be no conflict with the objectives of Policy GP.53 of the Local Plan and paragraph 17 (the fourth and fifth core planning principles) and sections 7 (Requiring good design) and 12 (Conserving and enhancing the historic environment).

Living Conditions

16. Although the siting and size of the proposed dwellings are unknown at this time, with careful attention to detail, I see no reason why this scheme could not be designed in a manner so as to safeguard the living conditions for the occupiers of The Barn, Owl Barn and Nearnton End Farmhouse. That is to say I do not foresee any reasons as to why there should be any unacceptable loss of light, privacy or outlook for the occupiers of the neighbouring dwellings. Those being matters which would need to be fully assessed as part of any reserved matters submission.
17. On the available information I consider that this site could be developed in a manner that would be respectful of the living conditions for the occupiers of adjoining properties. Accordingly in this respect I find there to be no conflict with the objectives of Policy GP.95 of the Local Plan and the parts of the Framework that address this issue, most particularly the fourth bullet point under paragraph 17, i.e. securing a good standard of amenity for existing and future occupants of land and buildings.

Traffic generation

18. The appeal site lies at the eastern extremity of Nearnton End, a no through road, which at this point is single track road. From what I observed the layout and width of the aforementioned roads are such that they do not allow excessive vehicle speed to be achieved.
19. For the purposes of assessing the traffic generating implications of new residential development, in my experience, it is generally accepted that, on average, dwellings of the size likely to be accommodated by this site each generate in the region of six to eight movements per day. No traffic generation information has been provided for the site's current commercial use. While this development would involve daily movements to and from the site, compared with movements largely throughout the working week under the current use, I am not persuaded that the appeal development's level of traffic generation would be of a level that would be: prejudicial to the

operation of the local highway network or harmful to the living conditions for nearby residents. In this respect I note that the Council's engineering team has raised no objection to the appeal development⁵.

20. As I have indicated above, I recognise that the availability of services and facilities in the Swanbourne is limited and, with the limited access to alternative transport modes, there is likely to be a high level of car dependency amongst the occupiers of the appeal development. However, this level of private vehicle dependency would be no higher than for the existing residents of the village and this is something which is not out of place generally in a rural location such as this.
21. I therefore find that as this development would not be a significant traffic generator and a suitable access to the site would be available that. In the absence of any relevant Local Plan policy or policies having been drawn to my attention, I find that there would be no conflict with the objectives of paragraphs 32 and 34 of the Framework.

Overall Planning Balance

22. On the available evidence I can only take it to be that there is no current five year HLS within the Council's area, with result that the policies for the supply of housing, including those that seek to define settlement boundaries, cannot be treated as being up to date, having regard to the guidance in the Framework. For the reasons given above I therefore find that the social benefits arising from the provision of additional housing, albeit at a modest level, outweigh any economic disadvantages of this development. I also find there to be no adverse environmental impacts that would significantly and demonstrably outweigh the social benefits of this scheme. I therefore find this proposal to amount to sustainable development for the purposes of the Framework.

Conditions

23. The Council has not provided a list of conditions that it would wish to be imposed in the event of this appeal being allowed. I have therefore considered the need for the imposition of conditions having regard to the relevant national guidance, i.e. the tests set out in paragraph 206 of the Framework and the section on conditions in the Planning Practice Guidance.
24. I have imposed statutory conditions relating to the time limit for the commencement of work and the submission of reserved matters. As access to the development is matter for determination at this stage I have imposed a condition requiring compliance with the submitted plans, insofar as they determine the position of the access to the development. In order to safeguard the operation of the highway it is necessary that on-site parking and manoeuvring facilities are available to the occupiers of the development and retained for its duration and I have therefore imposed a condition to this effect.
25. As all other matters have been reserved for future consideration it is unnecessary for me to impose conditions relating to appearance (external

⁵ Memorandum of 8 June 2015

materials etc), landscaping (planting, surfacing and boundary treatments) and layout, as these are details that will be considered by the Council under the reserved matters procedure. The Council's engineering team has suggested two conditions, the first of which concerns the upgrading of the access to comply with the County Council's guidance for 'commercial vehicles', something which I find not to be relevant to a residential redevelopment scheme. The second condition concerns on-site vehicle manoeuvring, a matter which comes within the scope of the fifth condition I have imposed.

Conclusion

26. For the reasons given above I conclude that this appeal should be allowed.

INSPECTOR

Grahame Gould

Schedule of Conditions

- 1) Details of the 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 begins 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 three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: NEFS.OLP2500; and NEFS.SP500, insofar as the latter plan shows access to the development.
- 5) The details submitted pursuant to condition 1 shall include parking and vehicle manoeuvring space for each dwelling. No individual dwelling shall be occupied until the approved parking and manoeuvring facilities to serve that dwelling have been formed and are available for use. The approved parking and vehicle manoeuvring facilities for each dwelling shall thereafter be retained and not be used for any purposes other than the parking of vehicles or providing access to and from the parking facilities.