



Appeal Decision

Site visit made on 27 February 2019

by J Evans BA(Hons) AssocRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th July 2019

Appeal Ref: APP/J0405/W/18/3215629

Land adjacent to 38 Eythrope Road, Stone, Buckinghamshire HP17 8PG

- 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 Aldbury Homes against the decision of Aylesbury Vale District Council.
 - The application Ref 18/00034/AOP, dated 03 January 2018, was refused by notice dated 17 July 2018.
 - The development proposed is the development of up to 9 bungalows, including access.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. A revised version of the National Planning Policy Framework (the Framework) was published on 19 February 2019. The revisions do not alter the national policy approach in respect of the issues raised in this appeal and therefore the main parties have not been prejudiced by the updates to this document.
3. The application was submitted in outline with all matters reserved aside from access. I have treated the appeal in the same manner, and have thus treated all plans submitted as indicative, except those relating to access.
4. The description on the original application form, the appeal form and the local planning authority's decision notice refer to the 'proposed' development. This reference in the description is superfluous and I have removed the term from the description.
5. The address of the appeal site on the original application form and the appeal form refer to '38 Eythrope Road, Stone HP17 8PG'. However, the appeal site does not specifically relate to this property or its associated garden, but concerns land adjacent to it. I consider that 'Land adjacent to 38 Eythrope Road, Stone HP17 8PG' is a more accurate description of the appeal site, and I have therefore used this address in my decision.

Main Issues

6. The main issues in this case are the effect of the development on:
 - the character and appearance of the area and on the open countryside; and
 - off site sport and leisure facilities and primary education.

Reasons

Character and appearance of the area and the open countryside

7. The appeal site relates to an undeveloped section of land situated part way along Eythrope Road, a predominately residential street which leads out of the settlement of Stone into the open countryside.
8. Eythrope Road is characterised by a linear run of development, with a prevailing character of street facing facades set behind small front gardens. Whilst siting is consistent, design varies, with two storey dwellings and bungalows set amongst groups of traditional terraces.
9. Opposite the appeal site development is built up and further dwellings can be found accessed via side streets leading from and set behind Eythrope Road itself. The side of Eythrope Road upon which the appeal site is located is not as dense and becomes more sporadic and rural in character at the point of the appeal site, as Eythrope Road leads out from the settlement into the open countryside.
10. Nonetheless, there is built form between the appeal site and the broader rural landscape, including the property 56 Eythrope Road adjacent, which is separated from the appeal site by a small lane which provides access to further buildings and a single storey dwelling. There is also a cemetery located to its rear. The cemetery is access via a track leading to the side of the properties 36 and 38 Eythrope Road which are located towards the settlement side of the appeal site. These two properties read as a physical cut into the field in which the appeal site is located.
11. The appeal development proposes up to nine bungalows. The appeal site steps further away from Eythrope Road than the gardens of the adjacent bungalows at Nos.36 and 38 but to a similar depth as the curtilage of No. 56. An undeveloped gap would be retained between the appeal site and the cemetery.
12. Saved Policy GP35 of the Aylesbury Vale District Local Plan Written Statement Part 1 2004 (AVDLP) states, amongst other matters, that the design of new development proposals should respect and complement the physical characteristics of the site and its surroundings, the building tradition, ordering, form and materials of the locality and the historic scale and context of the setting. The AVDLP predates the Framework, however the contents of Policy GP35 are consistent with the design aims contained within Section 12 of the Framework, which under paragraph 127, amongst other matters, seeks to ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting and establish or maintain a strong sense of place.
13. The 'up to' quantum of the development proposed, the depth that the appeal site leads into the existing field and the location of the site entrance centrally within the appeal site frontage to Eythrope Road, suggest that future built form would be highly likely to be undertaken in a tandem manner at a potential subsequent stage. This is reflected in the indicative plans submitted, which suggest a cul-de-sac development which would have an overtly suburban character.
14. To my mind, such an approach would not be an appropriate response to the linear characteristics of Eythrope Road. It would lead to physical development

throughout the appeal site which would be out of context with the prevailing spatial characteristics of the street and would create an undesirable and unsuitable pattern of development. I therefore find that the appeal proposal would result in a significant adverse impact upon the character and appearance of the area and would be inconsistent with Policy GP35 of the AVDLP and Section 12 of the Framework.

15. Further to the above, the appeal site falls on the edge of the Brill-Winchendon Hills Area of Attractive Landscape (AAL). Saved AVDLP Policy RA8 requires that development proposals in these areas should respect their landscape character and that development which adversely affects this character will not be permitted, unless appropriate mitigation measures can be secured.
16. The Council have also referred to paragraph 170 of the Framework which explains that decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes. The appellant has referred me to an appeal decision (APP/J0405/W/16/3142524) at Long Crendon whereby the Inspector, for a number of reasons, concluded that a site within the same AAL, did not amount to a valued landscape for the purposes of the Framework and that development upon it would not undermine the AAL designation.
17. Whilst I do not have any further information on the background to this appeal decision, and thus I do not attribute this decision significant weight in my determination, I do nevertheless reach a similar view with regard to the appeal proposal before me and the resultant effects it would have upon the AAL and landscape character. This is primarily due to the built form around the site and its resultant separation from the broader open countryside. Whilst it is acknowledged that the site is within the AAL, I do not consider that the development of this site would have an adverse effect on the character of the AAL or a valued landscape. I therefore find that the appeal proposal would be acceptable in accordance with saved Policy RA8 of the AVDLP and paragraph 170 of the Framework.
18. However, these conclusions on landscape character do not override the significant concerns I have more broadly about the ability of the proposal to integrate acceptably with the character and appearance of Eythrope Road.
19. On this first main issue I conclude that the proposal would be significantly harmful to the character and appearance of the area and would therefore conflict with Policy GP35 of the AVDLP and Section 12 of the Framework.

The effects of the development on off site sport and leisure facilities and primary education

20. The Council contend that notwithstanding the first grounds for refusal, the appeal proposal would be required to provide a financial contribution through a planning obligation made under Section 106 of the Town and Country Planning Act 1990, as amended, towards off site sport and leisure facilities and primary education.
21. The appellants have contested the need for a planning obligation. As a consequence, no such obligation is before me to take into account in reaching my decision.

22. Whilst I acknowledge the representations from the Council's education officer, I have not been provided with further information to substantiate their comments. Furthermore, I have no detail as to the necessity of the off site sport and leisure facilities contribution and where this would be targeted. I therefore do not have information before me to conclude that without a contribution, the appeal proposal would result in a harmful effect in terms of the provision or availability of off site sport and leisure facilities and primary education.
23. Paragraph 56 of the Framework explains that planning obligations must only be sought where they meet all of the following tests as set out in Regulation 122(2) of the Community Infrastructure Levy Regulations (CIL Regs) 2010, as amended: a) necessary to make the development acceptable in planning terms; b) directly related to the development; and c) fairly and reasonably related in scale and kind to the development.
24. Saved Policies GP88 and GP94 of the AVDLP are consistent with the Framework in so far as they require contributions for off-site outdoor place space and facilities and community facilities to be, amongst other matters, reasonably related to the scale and kind of housing proposed. For the reasons outlined above, I am unable to conclude, on the information before me, that the contributions sought in this case are necessary or reasonably relate to the proposal. Therefore, it has not been demonstrated that a planning obligation securing financial contributions meets the tests within Regulation 122 of the CIL Regs and the paragraph 56 Framework.
25. In any event, it seems to me that if the appeal was to be allowed, then a condition could reasonably be applied limiting occupation of the bungalows to the over 55s. In such a situation, the proposal would not place pressure on sports and leisure provision, or primary education, in the way new housing unfettered by such a condition would. In such a situation, contributions would not be necessary.
26. In that overall context, and on the basis of the information before me, a financial contribution towards off site sport and leisure facilities and primary education has not been demonstrated as reasonable or necessary. I therefore find that the proposal would not conflict with Saved Policies GP88 and GP94 of the AVDLP and paragraph 56 of the Framework.

Conclusion

27. As set out above, I have found that the proposal is contrary to the development plan. However, the parties agree that in this case, the tilted balance in paragraph 11 d) of the Framework applies on the basis that the Council do not have up-to-date housing policies in the AVDLP. On my application of that tilted balance, I find that the significant adverse impact the proposal would have on the character and appearance of the area would significantly and demonstrably outweigh the benefits that would accrue from 9 dwellings of the nature proposed, when assessed against the policies of the Framework considered as a whole.

J Evans

INSPECTOR