
Appeal Decision

Site visit made on 30 August 2016

by Richard Aston BSc (Hons) DipTP MRTPI

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

Decision date: 18 October 2016

Appeal Ref: APP/K0235/W/16/3150866

65A Renhold Road, Wilden, Bedford MK44 2PX

- 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 Kulwinder Rai against the decision of Bedford Borough Council.
 - The application Ref 15/02133/OUT, dated 12 September 2015, was refused by notice dated 20 November 2015.
 - The development proposed is erection of 4 No. 3-bedroom residential dwellings on redundant car park of former Bedford Butterfly Farm with associated parking. All matters reserved except access and scale.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was submitted in outline form and the application form makes it clear that all matters are reserved for future consideration apart from 'Access' and 'Scale'. Although the plan is not marked as 'indicative' because of this I have dealt with the appeal on the basis that the plan is indicative.
3. The Council's third reason for refusal relates to affordable housing. However, the Council has subsequently confirmed that following recent changes to the Planning Practice Guidance that the provision of affordable housing is no longer required and the Council no longer wishes to pursue this matter. I have not therefore considered it any further.
4. The appellant submitted additional information during the course of this appeal that was not previously available when the appeal was made. This related to the supply of housing land, bus services and an additional appeal decision from an authority in Cheshire¹. In determining this appeal I have taken account of this information along with the response made by the Council.

Main Issue

5. The main issue is whether the development would provide a suitable site for housing, having regard to its location and the effect on the character and appearance of the area

¹ App/R0660/W/15/3132073

Reasons

Background

6. The proposal follows a number of refused applications for residential development, including an application for two dwellings in 2013 and the subsequent dismissal of a related appeal². Whilst each case must be determined on its own merits I have had regard to this previous decision in the determination of this appeal.

Location

7. The site is located within the open countryside as defined in the Council's Allocations and Designations Plan 2013 and within the Rural Policy Area ('RPA'). Policy CP13 of the Bedford Borough Core Strategy and Rural Issues Plan 2008 ('CS') allows development in the countryside if it would be consistent with national policy. Policy CP14 of the CS requires where there is a proven need for development in the RPA that this is in or around the edge of key service centres.
8. Policy H26 of the Bedford Borough Local Plan 2002 ('LP') restricts development in the countryside, but provides for a number of exceptions, including agricultural workers' dwellings, replacement dwellings and housing for local needs. On the evidence before me, the proposal would not fulfil any of these criteria and the proposal would therefore conflict with this policy.
9. The Council contend the development plan policies seek to establish locations for significant growth and an area of limited development whilst only permitting development outside such areas in exceptional cases. This is part of an overall strategy to actively manage patterns of growth which is broadly consistent with the Framework. However, I also recognise that there is some tension between such policies of restraint and the provisions of the Framework that seek to promote sustainable development in all rural areas.
10. Nevertheless, paragraph 55 of the Framework requires that housing should be located where it will enhance or maintain the vitality of rural communities and this is also echoed in Policy CP14 of the CS which refers to the need to maintain the viability of rural communities. Paragraph 55 of the Framework sets out that new isolated dwellings in the countryside should be avoided unless there are special circumstances, albeit that the term 'isolated' is not defined.
11. Despite the presence of other development within the vicinity of the site it did not appear to me that it was part of an established residential hamlet. The village centre of Wilden is approximately 1km away with access along an unlit and busy rural road with no footway for a considerable distance that would not be perceived as an attractive route for cyclists or pedestrians. It also appeared to contain somewhat limited services and whilst the appellant refers to the presence of Pells Farm Shop, which is within walking distance of the site, this appeared to provide little more than top up convenience and farm produced goods.
12. The appellant has also referred to the reinstatement of a bus stop outside the site but the evidence before me does not demonstrate when this will be

² APP/K0235/A/14/2216532

delivered or that the service is a sufficiently regular or frequent one. Overall, it is highly likely that future residents would opt to use private cars rather than more sustainable modes of transport in order to access day to day services both within the village and further afield. Although car journeys may be relatively short, the proposal would generate many car trips and would be unlikely to encourage sustainable modes of transport.

13. Furthermore, I have been provided with no meaningful evidence that such a proposal would enhance or maintain the vitality of the rural community by supporting groups of other smaller settlements. In my judgement, the dwellings would be in a functionally and physically isolated location and there is no suggestion from either of the parties that the proposal would fulfil one of the special circumstances set out in paragraph 55.
14. For these reasons, the proposal would not be a suitable site for housing in terms of its location and would conflict with Policies CP13 and CP14 of the CS and Policy H26 of the LP which, when read as a whole are part of an overall strategy that seeks to locate growth in the most accessible and sustainable locations. The proposal would also conflict with the Framework which seeks to actively manage patterns of growth to make the fullest possible use of public transport walking and cycling, reduce greenhouse gas emissions, promote sustainable development in rural areas where it will enhance or maintain the vitality of rural communities.

Character and appearance

15. The car park is surfaced in permeable loose materials rather than a bound or tarmac surface with a low post and rail fencing that once delineated the parking areas. I do not consider that it appears as part of the curtilage of 65A or accords with the definition of Previously Developed Land set out in the Glossary in Annex 2 of the Framework. Furthermore, with no car or coaches parked on the area, the appeal site has an open and rural character that positively contributes to the character and appearance of the area and a strong affinity with the open countryside.
16. Although appearance, landscaping and layout are reserved for future consideration, given the nature of the site there are a limited number of ways in which the appeal site could be developed and despite the presence of vegetation around part of its boundaries, four dwellings of the scale proposed would be clearly conspicuous and overly dominant additions to the rural landscape.
17. Moreover, any future development is highly likely to have a more suburban character and appearance, sub divided into uncharacteristically small plots and dominated by hard elements such as the houses, garages and parking areas and clustered in the centre of the site. The further introduction of the type of domestic paraphernalia that is typically associated with such residential dwellings would also cause some further harm to the character and appearance of the area by urbanising its appearance.
18. Overall, the proposal would represent a harmful visual intrusion that would be at serious odds with the spacious and open quality of the appeal site and substantially diminish its contribution to the character and appearance of the area. I do not consider that this harm could be mitigated by additional landscaping or by other conditions.

19. For these reasons, the proposal would cause significant harm to the character and appearance of the area and would conflict with Policy BE30 of the LP and Policies CP13 and CP21 of the CS. Amongst other things these require regard to the visual impact of development, that new development is of the highest quality design and improve the character and quality of the area. I find these policies are consistent with the Framework insofar as development should respond to local character, reinforce local distinctiveness and that good design is indivisible from good planning. Accordingly, the proposal also conflicts with the Framework in this regard.

Other Matters

20. I have been referred to a number of appeal decisions by the appellant which are contended as being relevant to the appeal before me. However, in the appeal at Upton End Business Park, Shillington (APP/P0240/W/15/3133275), the Inspector reached a different conclusion in relation to isolation. In the Blackburn Hall Farm, Thurleigh decision (APP/K0235/W/15/3087254) the appeal related to a different form of development, with employment facilities close by and the Inspector also found that the special circumstances test in paragraph 55 was met.
21. The appeal at Brook End Farm (APP/K0235/A/14/2216504) related to and appeal against a condition and involved matters relating to the optimal viable use of a heritage asset. The appeal on land to the east of Box End Road (APP/KO235/W/15/3005128) and at Weston, Cheshire related to a different scale of development with different matters of judgement and policy considerations. Furthermore, both appeals were determined by a Public Inquiry and the Cheshire appeal was in a different authority. Having carefully considered the decisions submitted by the appellant, I find that they are not directly comparable to the appeal proposal before me. In any event each case must be considered on its own merits and they do not alter my views in relation to the main issue.

Overall conclusions and planning balance

22. The appellant refers to the presumption in favour of sustainable development set out in the Framework and recent case law on this subject³. Central to this is the contention that the Council are unable to demonstrate a five year supply of housing land. However, whilst I have considered the various documents submitted, the evidence before me does not enable me to reach a definitive conclusive in relation to the housing land supply position.
23. The proposal would provide some social benefits by providing four family sized homes and economic benefits during construction along with some future spending in the local economy. Although the appellant refers to the proposal being for more modestly proportioned local housing for local young families in the parish, I have nothing before me that would limit the dwellings for sale other than on the open market or to ensure that they would be more 'affordable' and I have therefore attached very limited weight to this.
24. Set against this, I have found that the proposal would not be in a suitable location for housing and would cause significant harm to the character and appearance of the area. As a consequence of the harm that I have identified,

³ Cheshire East Borough Council v Secretary of State for Communities and Local Government and Renew land Developments [2016] EWHC 571 (Admin).

there is conflict with the development plan and the proposal fails to satisfy the environmental and social dimensions to sustainable development as defined in the Framework.

25. Even if I were to conclude there is a shortfall in five year supply of the scale suggested by the appellant and that relevant policies for the supply of housing should not be considered up to date, the adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The proposal would not therefore be the sustainable development for which the Framework indicates a presumption in favour.
26. Having considered all other matters raised, the proposal would conflict with the development plan, when read as a whole and the Framework and I therefore conclude that the appeal should be dismissed.

Richard Aston

INSPECTOR