

Appeal Decision

Site visit made on 9 November 2016

by S J Lee BA(Hons) MA MRTPI

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

Decision date: 1st December 2016

Appeal Ref: APP/K0235/W/16/3156635

Land Rear of Brook Farm, 15 Wootton Road, Kempston, Bedfordshire MK43 9BH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Ron Field against the decision of Bedford Borough Council.
 - The application Ref 14/02466/FUL, dated 9 January 2015, was refused by notice dated 1 March 2016.
 - The development proposed is a new dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for a new dwelling at Land Rear of Brook Farm, 15 Wootton Road, Kempston, Bedfordshire MK43 9BH in accordance with the terms of the application, Ref 14/02466/FUL, dated 9 January 2015, subject to the conditions in the attached schedule.

Preliminary matter

2. The address I have used in the heading above is taken from the Council's decision letter. It differs slightly from that given on the original application form but provides a more accurate and useful description of the location of the development.

Main Issue

3. The main issue is whether the development would provide a suitable site for housing, having regard to local and national policies on housing in the countryside and access to everyday local facilities by a range of modes of transport.

Reasons

4. The appeal site is an unmaintained greenfield plot of land between 15 and 19 Wootton Road. This forms a gap in a ribbon of residential development running along the eastern side of the road. This stretches out from the main part of the small hamlet that is focussed on either side of Ridge Road, a short distance to the north of the site. There is a stone agricultural building fronting the site which would be removed and the site is bounded by a mixture of hedgerow and fencing. There is a small brook running between the site and No 19. On the opposite side of the road are open fields and a farm.
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5. The Council has drawn my attention to a previous dismissed appeal¹ for a similar development on this site. However, following the publication of the National Planning Policy Framework (the Framework) in 2012, there has been a material change in national policy relating to housing in the countryside since this decision was made. I also understand that there have been some changes to local service provision in the intervening period that are material to this case. Therefore, while I have had regard to this decision, the weight I am able to give it is inevitably reduced in light of these important changes in context.
6. Planning law² dictates that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. In this case, the development plan consists of the saved policies of the Bedford Borough Local Plan (2002) (BLP) and the Core Strategy & Rural Issues Plan (2008)(CS). These documents pre-date the publication of the Framework. In such circumstances, due weight can still be given to the policies within them according to the degree of consistency with the Framework's policies³.
7. Paragraph 55 of the Framework states that housing in rural areas should be located where it will enhance or maintain the vitality of rural communities. The example given is where development in one village may support services in a village nearby. It also states that isolated homes in the countryside should be avoided unless there are special circumstances. This fits into the overall core planning principle of supporting thriving rural communities.
8. The Council has relied on BLP policy H26 and CS policies CP13 and CP14 in its decision. These policies seek to focus development into defined 'Settlement Policy Areas' (SPAs) and key service centres that are considered to be sustainable locations. Insofar as these policies seek to manage patterns of growth into areas with good access to services and facilities, they have a broad level of consistency with the requirements of the Framework.
9. The site is outside any defined SPA and is within the area identified as the 'Rural Policy Area' (RPA). Therefore, for the purposes of local and national policy, the site is within the open countryside. Policy H26 states that development will not be permitted outside SPAs unless the criteria of a number of other policies are met. These are set out in policies H27-H29. It is accepted by the main parties that the development does not meet any of these criteria. There is, therefore, conflict with this policy.
10. The Framework does not, however, impose a blanket restriction on development outside defined settlements or stipulate that the requirement for any 'special circumstances' has to be met by all development in open countryside. The 'special circumstances' only apply to development which would be considered isolated. As such, policy H26 is more restrictive than the Framework and there is a degree of inconsistency between the BLP and national policy. This significantly reduces the weight that I have given to policy H26 in my decision.
11. Policy CP14 considers development within the RPA where there has been a proven need for housing. However, other than in relation to rural workers'

¹ Appeal reference: APP/W0205/A/08/2081883

² Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990.

³ See paragraph 215 of the Framework.

dwelling, there is no provision within the Framework to identify a proven need for housing. Again, there is some inconsistency with national policy which means I have given the lack of an identified need for development little weight in my consideration. The other objective of the policy to support the vitality of local communities is, however, still a relevant factor.

12. Policy CP13 states that development outside SPAs will only be permitted where it meets national policy. Here it refers to 'Planning Policy Statement 7: Planning and the Countryside'. This has now been replaced with the Framework. The requirements of current national policy must take precedence. In light of this, I would question whether policies H26 and CS13 can be fully considered in unison. Policy CS13 defers to national policy in its determination of schemes outside defined SPAs, whereas H26 sets out specific criteria. As policy H26 is inconsistent with national policy in how these criteria are implemented, it follows that there is also an inconsistency between it and policy CS13. This conflict further reduces the weight that I have given to policy H26. As policy CP13 is the more recently adopted than H26, and by definition more consistent with national guidance than either H26 or CP14, I have given this the most weight in the determination of the appeal.
13. The national Planning Practice Guidance (PPG) specifically makes the point that all settlements can play a role in delivering sustainable development in rural areas. Blanket policies restricting housing development in some settlements and preventing other settlements from expanding should be avoided unless their use can be supported by robust evidence. Under national policy – and now by extension policy CP13 – being outside a SPA is not the determinative factor in this appeal and other material considerations have to be weighed in the balance. Here, the crucial issue is whether the development would be considered isolated and meets the other relevant requirements of the Framework.
14. The Framework does not define what is meant by isolated. Clearly, the development site is not physically isolated, as there is housing on either side of the site and would form part of a ribbon of development that extends beyond the site for some distance along Wootton Road. However, in the context of the guidance, the assessment of isolation cannot only be a consideration of whether there are other properties near to the appeal site but rather how well the site relates to defined settlements, the level, proximity and accessibility of services and facilities and such things as whether the site has good access to public transport or is in a generally accessible location.
15. The hamlet the site is located in does not have any services or facilities. Therefore, future occupants would have to travel to access day-to-day facilities. The nearest 'key service area' is Wootton, the edge of which lies some 550 metres along Wootton Road. This village contains two small convenience stores, a post office, village hall, two public houses, both an Upper and Lower school, a library and a medical centre. I took the opportunity to walk from the site into the village. The pedestrian route is along a good quality pavement with the provision of street lighting along its length. It is around a 15-20 minute walk from the appeal site to the nearest village store and post office. While I recognise that this might be at the limit of what many people would decide to walk for day-to-day services and some facilities in the village are a little further than this. However, it is certainly not beyond the scope of

those inclined to walk and the route itself would not be off-putting. It would also not be an unrealistic or unreasonable route for cycling into Wootton.

16. The Council has argued that Wootton would not provide for the day-to-day needs of the residents of the site. However, it is more than capable of meeting many basic needs such as top-up or basket shopping, post office services, education and medical needs. For a relatively small rural settlement, Wootton provides a good range of facilities and while weekly shops may not be possible, most other day-to-day requirements can be met in this location.
17. In the opposite direction to Wootton is the larger settlement of Kempston. The main shopping area here is around 2.2km away but provides a wider array of facilities than Wootton. Kempston would be the logical location at which local residents would carry out those activities that cannot be carried out in Wootton. While this is clearly beyond a reasonable walking distance, there is evidence of a good regular bus service between Kempston and Wootton which passes by the site. The appellant has indicated that this runs from early morning to early evening every 20 minutes Monday to Saturday and hourly on Sundays. The Council has not refuted this. Bus stops for either direction are less than a 5 minute walk from the site. From the information provided, and my own observations, it is evident that these bus services provide good opportunities for local residents to access day-to-day facilities by modes other than the car should they wish to do so.
18. Since the consideration of the previous appeal, a new Lower School has been built around 800m away from the site as part of an identified growth area. There is also an undetermined planning application for a new supermarket in this area. This is further evidence of the potential for local service provision within a reasonable walking distance of the site.
19. There is, therefore, potential for residents to make use of public transport, walking and cycling to access, and support, local services and facilities. A single dwelling would not make a significant contribution to the vitality of such services, but the Framework does not state that the support of local vitality must be significant, only that a development is capable of achieving this aim. I am satisfied that there is a reasonable functional relationship between the appeal site and Wootton, such that the development would help maintain the facilities within this village and that facilities in Kempston are also accessible by public transport.
20. While this does not mean the majority of trips from the development would not be made by car, the number of journeys generated by one house is unlikely to be significant and the situation would be no different to the rest of the hamlet. The relative proximity of services in Wootton, Kempston and potentially within the nearby growth area suggests that journey lengths need not be excessive. In addition, the Framework recognises the opportunities to maximise sustainable transport solutions will vary from urban to rural areas. The fact paragraph 55 highlights the potential for housing in one village to support services in another implies an acceptance that some travel in a rural area may be necessary. Therefore, I consider that in a situation where there is good public transport provision, and it would not be unreasonable to walk or cycle to reach some nearby services and facilities, the development would be located in an accessible area in a rural context.

21. As a result of these factors, the site would not be isolated in the context of the Framework and the development would be able to contribute to the vitality of nearby rural communities. There would be no need in this instance, therefore, to demonstrate any of the special circumstances required by paragraph 55. I also consider that the site is in a location that is capable of giving people a real choice about how they may travel, in line with the objectives of the Framework. These factors demonstrate the development would have both social and economic benefits.
22. Turning to other matters of importance to national policy, the Council has not raised any significant concerns relating to the impact of the development on the character and appearance of the area. I saw nothing that would lead me to disagree with their conclusions on these matters. The site would not extend the ribbon of development out into the open countryside or constitute an encroachment beyond the logical extent of the settlements' built-up area. I am also satisfied that there would be no material harm from an environmental perspective.
23. In conclusion, the development would conflict with BLP policy H26 and aspects of CS policy CP14. However, for the reasons set out above, the greatest weight in this case should be given to policy CP13 and the Framework. In the absence of substantive evidence to the contrary, I am satisfied that the development complies with the requirements of the Framework when taken as a whole and as such is consistent with CS policy CP13, which seeks to resist development in the countryside that would be at odds with national policy.

Other matters

24. I acknowledge that the previous Inspector concluded that the development would not be considered sustainable development. However, I am satisfied from the details provided that the main concern of the Inspector was with the development site being outside the SPA. As noted, this is no longer as critical an issue and other material considerations have to be taken into account. There is also sufficient evidence before me to demonstrate Wootton is accessible and provides a good level of service provision. It is not clear what evidence the previous Inspector had in this regard. The previous Inspector also agreed with the Council that the development would have an unacceptable impact on the character and appearance of the area. The Council has not pursued this issue with regard to this appeal. Therefore, there are key material differences in context between the two appeals.
25. The Council has drawn my attention to other recent appeals it considers demonstrates that its policies are consistent with the Framework. Having considered these decisions, it is clear they do not represent direct parallels to the scheme before me. Firstly, one does not relate to housing and thus neither policy H26 nor paragraph 55 would apply. In relation to the two housing schemes, it is clear that in both instances the Inspector has referred to the limited accessibility of the site. In both instances, therefore, there would be conflict with the development plan and the Framework. This differs from the case before me, where is good access to nearby facilities and a reasonable choice of means of transport.
26. The occupiers of No 19 have raised some concern relating to their privacy. However, I am satisfied that there would be sufficient distance between the

two properties to ensure there would be no undue risk of being able to see into any habitable room.

27. The site is not in an identified flood zone, but photographic evidence showing heightened water levels on the site after heavy rain has been provided by interested parties. A mains sewer pipe also runs across the site, and concern has been raised that any diversion of the pipe to accommodate the development would cause or exacerbate existing problems with overflowing. I have not been provided with any substantive evidence to suggest that issues relating to drainage and foul water cannot be adequately addressed. The Council is happy that an appropriately worded planning condition would be acceptable and there is no reason to disagree with their conclusion on this matter.

Conditions

28. I have considered the suggested conditions from the Council in accordance with the guidance contained in the PPG. Where necessary, I have made minor amendments to the suggested wording in the interests of clarity and precision. In addition to the standard condition which limits the lifespan of the planning permission, I have imposed conditions specifying the relevant drawings as this provides certainty.
29. I have imposed conditions requiring the details of the materials, landscaping and boundary treatments to be agreed with the Council prior to development commencing on the site. These are necessary at this stage in the interests of protecting the character and appearance of the area. I have also imposed a condition relating to the implementation of the agreed landscaping scheme to ensure the permission is carried out in full.
30. I have imposed conditions relating to the access, turning areas, barriers and the surface materials prior to development taking place. This is necessary in the interests of highway and pedestrian safety. I have however, amended the suggested wording to remove largely informative elements that would be part of the agreed details. I have also combined some suggested conditions in the interests of clarity, precision and brevity. I have not included the specific requirement for approval of cycle parking facilities, as I am not convinced that is necessary for a single dwelling where a private garage is proposed. It is reasonable to assume that occupants are more likely to use this than any bespoke storage facility.
31. I have imposed the suggested condition on agreeing the details for foul and surface water drainage. This must also be addressed prior to development to ensure the site can be adequately drained.
32. The Council has suggested a condition requiring the provision of an energy statement. This refers to a previously agreed energy audit that I have not been provided with. Moreover, I have not been provided with the policies referred to in the Council's reasoning and therefore cannot be certain that this condition can pass the relevant tests in the PPG.
33. The PPG states that conditions restricting the future use of permitted development rights will rarely pass the test of necessity and should only be used in exceptional circumstances. The Council has not provided me with sufficient evidence to justify the necessity of removing future rights with regard

to curtilage buildings and alterations to the external appearance of the building.
As such, I have not imposed the suggested conditions.

Conclusion

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

S J Lee

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) Other than as required by conditions 3, 4, 5, 6, 7 and 8 the development hereby permitted shall be carried out in accordance with the following approved plans: P1 VO1; P01F VO3A; P2 VO2.
- 3) No development shall take place until there has been submitted to and approved by the local planning authority a scheme of landscape works, which shall include details of the following:
 - a) A survey of existing trees, shrubs and hedges giving their species, location, height, spread and condition and indicating those which are to be retained and those to be removed.
 - b) Planting proposals giving location, species, number, density and planting size.
 - c) The relationship of new planting to buildings, roads, footpaths, drains and locations of all underground and overground services.
 - d) Areas of grass turfing or seeding and other surface materials.
 - e) Depth of topsoil to be provided where necessary and the measures to be taken to maintain the new planting for the required period.
 - f) Details of all hardworks and paving materials.The development shall thereafter be implemented in accordance with the approved details or particulars.
- 4) No development shall take place until full particulars of the external materials to be used (to include walls, roof, doors, windows and external gutters and pipework) have been provided for on site for inspection and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details or particulars.
- 5) No development shall take place until written details of all boundary treatments, screen walls and fences including a timetable for carrying out the works are submitted to and approved in writing by the local planning authority. The works shall be carried out in accordance with the approved details and timetable.
- 6) No development shall take place until full details of foul and surface water drainage of the site have been submitted to and approved in writing by the local planning authority including a timetable for the works. The works shall thereafter be carried out in accordance with the approved details and timetable.
- 7) No development shall take place until details of the junction of the proposed vehicular access with the highway have been submitted to and approved in writing by the local planning authority. The access shall have a minimum width of 4.1m and be extended to the south of the existing access. The dwelling hereby permitted shall not be occupied until the junction has been constructed in accordance with the approved details. The junction shall thereafter be retained.

- 8) No development shall take place until details of car parking and turning areas have been submitted to and approved in writing to the local planning authority. The car parking and turning areas shall be constructed in accordance with the approved details prior to the occupation of the dwelling hereby approved and retained in this form at all times and shall not be used for any purpose other than the parking or turning of vehicles related to the use of the development.
- 9) Prior to the first occupation of the dwelling hereby approved, the agreed access shall have been surfaced in a stable and durable manner with a bonded material across the entire width of the access for a distance of 5.0m measured back from the carriageway edge. Any vehicular access gates provided shall open away from the highway and be set back a distance of at least 6.0m from the nearside edge of the carriageway of the adjoining highway.
- 10) All planting, seeding or turfing comprised in the approved details of landscape works under condition 3 shall be carried out in the first planting and seeding seasons following occupation of the dwelling. Any trees or plants which within a period of 5 years from the completion of the tree planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. For the purpose of this condition a planting season shall mean the period from November to February inclusive.