

Appeal Decision

Hearing held on 29 September 2016

Site visit made on 29 September 2016

by Claire Victory BA (Hons) BPI MRTPI

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

Decision date: 11 January 2017

Appeal Ref: APP/P0240/W/16/3154544

High Gables Farm, Clophill Road, Maulden, Bedfordshire MK45 2AX

- 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 Simon Lowe against the decision of Central Bedfordshire Council.
 - The application Ref CB/15/03296/OUT, dated 2 September 2015, was refused by notice dated 11 December 2015.
 - The development proposed is a single storey residential dwelling for retirement purposes on the site of a former agricultural building.
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Decision

1. The appeal is allowed and planning permission is granted for a single storey residential dwelling for retirement purposes on the site of a former agricultural building at High Gables Farm, Clophill Road, Maulden, Bedfordshire MK45 2AX in accordance with the terms of the application Ref CB/15/03296/OUT, dated 2 September 2015, and subject to the conditions in the following schedule.

Application for Costs

2. Mr Simon Lowe made an application for costs at the Hearing. This is the subject of a separate Decision.

Procedural Matters

3. The application is made in outline with all matters except access reserved for future consideration. However, drawing Ref CBC/002 refers to the proposed dwelling as a bungalow and the application description is for a single storey dwelling. I have determined the appeal on that basis.
4. The site address was given as 5 Silsoe Road on the application form but at the Hearing the parties confirmed the address was as set out in the banner heading above and formal decision.

Main Issue

5. The main issue in the appeal is the effect of the proposal on the character and appearance of the area.

Reasons

6. The appeal site contains a long rectangular single storey building close to the southern boundary. The site adjoins the rear gardens of Nos 1, 3, 5 and 7
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Silsoe Road to the west, and fenced off land to the south which lies between the appeal site and Nos 9 and 9a Silsoe Road. A fence separates the appeal site from an open field to the east. There is an existing vehicular access from Clophill Road, and a shingle driveway and hardstanding to the front and side of the building, with the remainder of the site laid to grass. The appeal site lies outside the settlement envelope of Maulden Village.

7. Policy DM4 of the Core Strategy and Development Management Policies DPD (CS) (2009) seeks to direct development to within settlement envelopes. The supporting text to the policy states that settlement envelopes serve to prevent coalescence between settlements and reflect the character of the predominant land use.
8. In as far as it seeks to restrict development outside the defined settlement envelopes, CS Policy DM4 acts as a restraint on housing supply. There was no dispute at the Hearing that for the purpose of paragraph 49 of the National Planning Policy Framework (the Framework), Policy DM4 is a policy for the supply of housing. It is common ground that the Council is unable to demonstrate a five year supply of deliverable housing land, and thus in accordance with paragraph 49 of the Framework, CS Policy DM4 is considered to be out-of-date. In these circumstances, paragraph 14 of the Framework indicates that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
9. The Council has referred to an appeal at Brook Farm, Wrestlingworth¹ determined in August 2016. In that appeal, taking into account the 4.76 year supply of deliverable housing sites, and degree of consistency with the Framework, the Inspector found that whilst CS Policy DM4 was out-of-date, it should be afforded some weight. I see no reason, based on the evidence before me, to disagree with this view, and I accord the policy moderate weight.
10. The appeal site lies between two settlement envelopes along Clophill Road, that together form Maulden Village. The northern and western boundaries of the site abut the boundary of the main part of the village, containing the Village Hall, Primary School and shop. A smaller part of the village lies to the east of the appeal site, along the Clophill Road corridor, and is separated from the appeal site by an open field. This separation is also maintained on the northern side of Clophill Road to the east of the appeal site.
11. The appeal proposal is to replace the existing single storey building with a single dwelling, situated in broadly the same location but with a smaller footprint. The property would be set well back from the road, but would have a frontage to Clophill Road. An existing mature hedgerow of approximately 2-3m in height encloses the front boundary and this would be largely retained, with a small part removed in order to achieve adequate visibility splays at the site access. The replacement of the existing building with the proposed dwelling, subject to detailed design considerations, would not have a significantly greater visual impact on the streetscene.
12. The close proximity of the site to the settlement boundary to the north and west means that the dwelling would not be isolated. Furthermore, whilst land to the south of the appeal site does not fall within the settlement envelope, it is

¹ Ref. APP/P0240/W/16/3150607

fenced off from the field to the east and has the appearance of domestic gardens. As such the development would appear as a continuation of the built up area.

13. The dwelling might be visible in wider views, for example when approaching Maulden village from the east along Clophill Road, but it would be seen against the backdrop of the existing properties along Silsoe Road and adjacent houses at Whiteman Court, and would be screened by existing and where appropriate additional landscaping. Consequently the dwelling would be satisfactorily assimilated into the landscape and the rural character of the village would be maintained.
14. The Council are concerned that there would be an erosion of the gap between the two settlement envelopes that would undermine the character of the village. Neither the appeal site nor the open field to the east form part of any specific policy designation or character area, and the gap between the two parts of Maulden is not protected other than by virtue of being outside the settlement boundaries. Nonetheless, a clear separation between the two built up areas would be retained by the existence of the adjacent field, which contributes to the rural setting of the village, and the development would not significantly erode the visual separation between the two settlement envelopes. As a result there would be no harm to the character and appearance of the surrounding area.
15. I have had regard to the previous appeals on the site which were dismissed. One was for six dwellings and so would have a considerably greater impact on the character and appearance of the area than the proposal before me. Furthermore, at the time of the appeal in 2014² for a two storey dwelling, the Council was able to demonstrate a five year supply of deliverable housing sites. The circumstances are therefore materially different to those of the current appeal.
16. Taking all of the above into account, I conclude that the development would not harm the character and appearance of the surrounding area and would accord with CS Policies DM3 and CS14. These require, amongst other things, high quality development appropriate in design and scale to its setting which respects local context. However, given the location of the site outside the settlement envelope, there would be a conflict with CS Policy DM4, to which I have afforded moderate weight.

Other Considerations

17. The proposed dwelling is for use by Mr and Mrs Lowe, who live in a large family house and are looking to downsize but remain in the village, where they are long term residents. Nevertheless, if permitted the dwelling could be occupied by any person, and there is insufficient justification for a personal permission, which should be imposed only in exceptional circumstances³.
18. The appellant has also submitted evidence⁴ which indicates there is a need for smaller dwellings in Maulden⁵ including bungalows and retirement flats to

² Ref APP/P0240/A/13/2208832

³ Planning Practice Guidance – Paragraph 015 Reference ID: 21a-015-20140306

⁴ "Meeting the accommodation needs of older people in Central Bedfordshire" (July 2016), Central Bedfordshire Council

⁵ Housing Needs Survey Report (2014) undertaken by Maulden Parish Council

accommodate older persons. Whilst the application is in outline, the submitted plans indicate the dwelling would be a small bungalow, and would thus make a contribution to meeting this need.

19. The parties' dispute whether the site is previously developed. It was previously used by the appellant for pheasant rearing, which the appellant asserts is not an agricultural use. If the site is previously developed, the proposed re-development and occupation of the building would be a further benefit of the proposal. There is limited information before me to reach a firm conclusion, but in any case the matter is not determinative in the appeal.

Balancing and Conclusion

20. The Framework sets out three interlinked strands of sustainable development, economic, social and environmental, that should be pursued jointly and simultaneously.
21. The proposal would have modest social and economic benefits as the development of one dwelling would provide employment during the construction phase and in local household spending in the longer term. The site is situated adjacent to the settlement envelope and within walking distance of local shops and services, including a small supermarket, village hall and primary school. There are bus stops with shelters close to the site, with regular bus services to Bedford and Luton.
22. I have found that there would be no harm to the character and appearance of the area. In addition potential surface water flooding and archaeological impacts can be mitigated through the use of appropriate conditions. Thus the scheme would also meet the environmental strand of sustainable development.
23. The proposal would be contrary to the development plan by virtue of the appeal site's location outside the settlement envelope, but this would not significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies of the Framework as a whole, and when taken in the round, the proposal would represent sustainable development.
24. For the above reasons, material considerations, including paragraph 14 of the Framework, indicate that planning permission should be granted for development that is not in accordance with the development plan. I therefore conclude that the appeal should be allowed.

Conditions

25. I have considered the need for conditions with regard to advice in the Planning Practice Guidance (the Guidance). I shall require details of the appearance, scale, landscaping and layout to be submitted to safeguard the character and appearance of the area.
26. At the Hearing it was suggested that further extensions to the property or the erection of outbuildings within the site should be restricted. The Guidance states that permitted development rights for new dwellings should only be removed in exceptional circumstances. However in this case I consider such a condition is necessary in order to safeguard the character and appearance of the area.

27. The Council consider that a condition is necessary to ensure the external materials used in the construction of the dwelling match that of the existing building. However, as part of the roof has been removed with just the struts remaining, I consider it reasonable to require details of proposed materials to be submitted to the Council for its approval, again to safeguard the character and appearance of the area.
28. A heritage assessment which formed part of the evidence base for an earlier planning application on the site⁶ highlights the potential for archeological deposits relating to the medieval settlement of Maulden, and the Heritage Environmental Record indicates potential for Saxon, medieval and post medieval deposits in the vicinity. A condition requiring a written scheme of archaeological investigation is therefore necessary to protect heritage assets. Details of surface water drainage are also necessary to reduce flood risk within and beyond the site.
29. I shall impose a condition requiring adequate visibility splays at the site access and for any gates to be positioned 6m from the back edge of the carriageway, in the interests of highway safety. I saw at the site visit that there are existing gates in a similar location.
30. Conditions requiring the details of car and cycle parking to be provided, vehicle turning area and a refuse collection point at the front of the site outside the proposed visibility splay and public highway are also necessary, again in the interests of highway safety.
31. Finally, I do not consider that a condition preventing the occupation of the dwelling before the completion of a footpath on the south side of Clophill Road within land owned by applicant is necessary for the development to be acceptable. There is a footpath on the opposite side of the road up to the nearby crossroads to the west and sufficient visibility for pedestrians and drivers at the site access, and thus the condition is not required in the interests of highway safety.

Claire Victory

INSPECTOR

⁶ Heritage Asset Assessment - Albion Archaeology (2012)

APPEARANCES

FOR THE APPELLANT:

Jonathan Clay Cornerstone Barristers

Mr Lowe Appellant

Mrs Lowe

FOR THE COUNCIL:

Mr Michael Huntington Planning Officer Central Bedfordshire Council

Ms Louise Newcombe Central Bedfordshire Council

Mr Andrew Marsh Central Bedfordshire Council

INTERESTED PERSONS:

Cllr Paul Duckett Ward Councillor Central Bedfordshire Council

Cllr Phillip Allen Maulden Parish Council

Cllr Woodward Maulden Parish Council

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Appeal decision at Brook Farm, submitted by the Council
- 2 Statement of Common Ground
- 3 Meeting the accommodation needs of older people in Central Bedfordshire (July 2016), Central Bedfordshire Council
- 4 Submissions on behalf of the appellant
- 5 Copy of Policy DM4
- 6 Prior Approval Decision and Site Plan Ref CB/14/03375/PAAD
- 7 Appeal Decision relating to the site from 2014
Ref APP/P0240/A/13/2208832
- 8 Closing comments submitted by the Council
- 9 Maulden Parish Council statement
- 10 List of Conditions suggested by the Council
- 11 Email confirming receipt of Council's appeal questionnaire and documents

Conditions

- 1) No development shall take place within each area approved as identified on drawing no. CBC/001 until approval of the details of the appearance, landscaping, layout and scale of the development within that area (herein called 'the reserved matters') has been obtained in writing from the local planning authority. The development shall be carried out in accordance with the approved details.
- 2) An application for the approval of the reserved matters shall be made to the local planning authority within three years of the date of this permission. The development shall begin not later than two years from the final approval of the reserved matters or, if approved on different dates, the final approval of the last such matter to be approved.
- 3) No development shall take place, notwithstanding the details submitted with the application, until details of the materials to be used for the external walls and roofs of the development hereby approved have been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details.
- 4) No development shall take place until details of the method of disposal of surface water drainage have been submitted to and agreed in writing by the local planning authority, including any land drainage system. Thereafter no part of the development shall be occupied or brought into use until the approved drainage scheme has been implemented.
- 5) The planting and landscaping scheme required to be submitted by condition 1 hereof shall be implemented by the end of the full planting season immediately following the completion and/or first use of the development (a full planting season shall mean the period from October to March). The trees, shrubs and grass shall subsequently be maintained for a period of five years from the date of planting and any which die or are destroyed during this period shall be replaced during the next planting season with others of a similar size and species.
- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, revoking or re-enacting the Order with or without modification) no development shall be carried out within Class A, B, E and F and of Part 1 of Schedule 2 to that Order unless planning permission has been granted on an application relating thereto.
- 7) No development shall take place until a multi-stage written scheme of archaeological investigation; that includes provision for post excavation analysis and publication, has been submitted to and approved in writing by the local planning authority. The said development shall only be implemented in full accordance with the approved archaeological scheme.
- 8) Before the development is first brought into use, a triangular vision splay shall be provided on the west side of the access drive and shall be 2.8m measured along the back edge of the highway from the centre line of the anticipated vehicle path. The vision splay so described and on land under the applicant's control shall be maintained free of any obstruction to visibility exceeding a height of 600mm above the adjoining footway level.

- 9) Visibility splays shall be provided at the junction of the access with the public highway before the development is brought into use. The minimum dimension to provide the required splay lines shall be 2.4m measured along the centre line of the proposed access from its junction with the channel of the public highway and 43m measured from the centre line of the proposed access along the line of the public highway. The required vision splay shall for the perpetuity of the development remain free of any obstruction to visibility.
- 10) Any gates provided shall open away from the highway and shall be set back a distance of at least 6m from the nearside edge of the carriageway of the adjoining highway.
- 11) The detailed layout plans to be submitted for approval of reserved matters in connection with the development hereby permitted shall illustrate a vehicle turning area suitable for a service/delivery sized vehicle, parking provision in accordance with the current guidance within the curtilage of all premises taking access directly from the public highway.
- 12) Before development begins, a scheme for the secure and covered parking of cycles on the site (including the internal dimensions of the cycle parking area, stands/brackets to be used and access thereto), calculated at one cycle parking space per bedroom and 2 short stay spaces per unit, shall be submitted to and approved in writing by the local planning authority. The scheme shall be fully implemented before the development is first occupied or brought into use and thereafter retained for this purpose.
- 13) Details of a refuse collection point located at the site frontage and outside of the public highway and any visibility splays shall be submitted to and approved by the local planning authority prior to occupation of the dwelling hereby permitted and shall be retained as such thereafter.