
Appeal Decision

Site visit made on 20 December 2016

by J C Clarke BSc(Hons) BTP MRTPI

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

Decision date: 13 January 2017

Appeal Ref: APP/P0240/W/16/3159535

Land adjacent to Sunny Cottage, 2 Mill Lane, Houghton Conquest MK45 3NF

- 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 Peter Doyle, Goldvale Developments Ltd against the decision of Central Bedfordshire Council.
 - The application Ref CB/16/01681/FULL, dated 12 April 2016, was refused by notice dated 30 June 2016.
 - The development proposed is Erection of 7 dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for Erection of 7 dwellings at land adjacent to Sunny Cottage, 2 Mill Lane, Houghton Conquest MK45 3NF in accordance with the terms of the application, Ref CB/16/01681/FULL, dated 12 April 2016, and the plans submitted with it, subject to the conditions listed in Annex A to my decision.

Procedural Matters

2. My decision uses the site address given on the Council decision notice rather than that given on the application form because the former more accurately describes the site location.
3. The Council's notification letter concerning the appeal required interested parties to submit any comments to the Planning Inspectorate (PINS) by 2 December 2016. Whilst some comments were received before this date others were received after it. Guidance published by PINS states that there is normally no opportunity for interested people to make representations after the deadline¹. In this case, however, the late representations referred to works which had taken place on the site after the deadline, and which led to the possibility that circumstances concerning the appeal had materially changed.
4. In the interests of fairness to all parties the late representations were forwarded to me for consideration. The main parties were also given an opportunity to comment on them. I have considered all the representations, including those received after the deadline, in my decision.

¹ 'Procedural Guide: Planning appeals – England', Planning Inspectorate, August 2016 – paragraph D.6

Main Issue

5. The main issue is the effect of the proposed housing, and associated highway works, on the character and appearance of the site and the surrounding area.

Reasons

Policy Context

6. The Council officer report indicates that the appeal site is outside the Settlement Envelope for Houghton Conquest. As a result the proposal would not be in accordance with Policy DM4 of the Central Bedfordshire Core Strategy and Development Management Policies (CSDMP) 2009 which seeks to restrict development outside the Settlement Envelopes.
7. The Council has accepted that it cannot demonstrate a 5 year supply of deliverable land for housing development. In such circumstances, paragraph 49 of the National Planning Policy Framework (the 'Framework') requires that relevant policies for the supply of housing should not be considered up to date. As they seek to guide the locations in which new housing development can be permitted, Policies CS1 and DM4 of the CSDMP constitute 'relevant policies' in this context.
8. Policies CS1 and DM4 form part of a strategy which is not providing enough deliverable land for new housing as required by the Framework. Whilst the Council has argued that it only has a limited under-supply against its 5 year housing land requirement, no detailed evidence underpinning the need and supply figures has been provided or tested by the parties. I acknowledge, however, that these Policies are part of the adopted development plan, with which my decision must be in accordance unless material considerations indicate otherwise. Having regard to all these factors and in accordance with paragraph 215 of the Framework, I have attributed limited weight to these Policies in my decision.
9. Policy DM3 of the CSDMP is broadly consistent with the Framework and therefore carries full weight in my decision.
10. As relevant policies are out of date, 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.

Character and appearance

11. The appeal site comprises a strip of disused open land which runs along part of the southern side of the cul de sac of Mill Lane. The Lane also serves a number of dwellings, most of which form a ribbon of development along its northern side and many of which are bungalows. Although the character of Mill Lane is influenced by its proximity to the built up area of Houghton Conquest, it also has the rustic charm of a narrow country lane.
12. Land immediately to the south and east of the site is also currently open. However, if outline planning permission CB/15/01362/OUT, for the erection of 125 houses is implemented this would result in there being a substantial amount of new development on this land in close proximity to the appeal site. Whilst the approved land use parameter plan for permission CB/15/01362/OUT

- includes a landscaped buffer alongside the appeal site, this would be of limited width along much of the affected boundary. This proposal is likely to result in the appeal site being bounded to a substantial degree by developed areas.
13. The proposed development would include the erection of five large 4-bedroom detached and 2 semi-detached houses arranged in a row alongside Mill Lane. The proposal also includes works to Mill Lane itself including widening, the installation of speed tables and the provision of a footway alongside the site.
 14. The dwellings would be larger than the bungalows on the northern side of the Lane, and if permission CB/15/01362/OUT or a similar permission is not implemented would be seen against a backdrop of open land to the south east of the site. The proposal would also cause a loss of openness within the site itself. However, it would not, even if permission CB/15/01362/OUT is not implemented, lead to a major change in the balance between urban and rural influences in the wider landscape. If permission CB/15/01362/OUT is implemented its effects in this respect would be even smaller.
 15. The land take of the appeal proposal would reflect the ribbon pattern of the existing development on the other side of Mill Lane. The new dwellings would be set back within their plots and separated from most of the dwellings on Mill Lane by fairly substantial interface distances. There would also be scope for landscaping within each plot which, whilst likely to take some years to become fully established, would soften the visual impact of the development.
 16. The suburban, 'executive' style of much of the new housing would be different to that of most of the existing dwellings on Mill Lane. However, the appearance of the dwelling frontages would be broken up by subsidiary front facing gables or other design detailing. Further visual interest would be added by the use of different materials at ground and first floor levels, details of which could be required by condition, and by breaks in the roof line of the detached dwellings. Fairly wide gaps would be retained between the sides of the new buildings, thereby preventing the creation of an unacceptable degree of visual enclosure.
 17. The proposed highways works would, by widening and providing a more formal design for part of Mill Lane, have an urbanising effect on this country lane. This effect would be increased by the drives and parking areas within the frontages of the dwellings. However, given the limited degree to which the highway would need to be widened and the fact that the design of the works could be controlled by condition I do not consider that these effects would cause material harm.
 18. In overall terms, I consider that despite its urbanising effects the proposal as a whole would not cause material harm to the character or appearance of the site or the surrounding area. It would accord with the relevant provisions of Policy DM3 of the CSDMP, the Framework and the Central Bedfordshire Design Guide 2014 relating to this issue.

Other Considerations

19. The proposal would, by creating 7 new dwellings, help to deliver the Government's objective of significantly boosting the supply of housing set out in paragraph 47 of the Framework. Furthermore, it would do so in a district where the Council has accepted that it cannot demonstrate a 5 year supply of

- deliverable sites for housing development. Whilst the proposal would have a modest impact on the overall housing land supply this would be an important benefit.
20. Although the Council has stated that the land supply, at 4.89 years, is only just short of the 5 year requirement, limited technical details concerning how this figure has been derived have been provided. This point has not therefore substantially reduced the weight that I have attributed to this matter. Whilst some interested parties have queried the need for more housing in Houghton Conquest, the housing market is likely to operate over a wider area. I have given the benefits of the proposal in relation to housing delivery substantial weight in the overall planning balance.
21. I acknowledge that local residents and Houghton Conquest Parish Council have raised other concerns related to the appeal proposal, and I set out my findings related to these below.
22. The proposal would lead to there being a period during which heavy construction traffic would travel to and from the site along Mill Lane. There would also be scope for noise and disturbance from construction activities on the site and I note the comments which have been received concerning recent works on the site. However, the construction activities, as at other housing sites, would be for a temporary period. There is also no conclusive evidence to show that this matter would cause greater problems, such as risk of structural damage to neighbouring property or to the highway, than would typically be the case for a new housing development.
23. Following occupation of the proposed dwellings, the proposal would lead to additional traffic flows on Mill Lane compared to those which exist at present. I have also noted the generally narrow nature of Mill Lane and that it is likely to be used, for example, by dog walkers and other people accessing the footpaths at its eastern end as well as by vehicular traffic. I also note the comments concerning delivery of oil and gas to nearby properties and the need to provide sufficient space for emergency vehicles.
24. However, the proposed development would, due to its fairly modest scale, only cause a limited increase in the numbers of vehicles using Mill Lane even in peak periods. I also note that the Council's Highways Officer raised no objection to the proposal. Subject to a condition being imposed requiring improvements to be made to Mill Lane, the proposal would not cause substantive harm to the safety or convenience of highway users. Any restriction on the ease with which vehicles would pass each other which would be caused by the installation of speed tables would be unlikely to be significant.
25. The Council has not raised any concerns regarding the ability of infrastructure and services in the area to cope with demand arising from the development, and the evidence before me does not justify coming to a different view on this point. There is also no convincing evidence to show that the site cannot be adequately drained, or that the development would cause or be subject to excessive risk of flooding. Similar points relate to the concerns which have been raised about water pressure and other services.
26. I note that concerns have been expressed concerning the effects of the proposal on the privacy and outlook of occupiers of existing dwellings on Mill Lane, for example due to the size of the proposed 2 storey houses in relation to

the smaller dwellings on the other side of the Lane. However, the Council officer report on the application states that the separation distances between the proposed and all existing dwellings would exceed its requirements. I have no reason to come to a different conclusion on this point.

27. The houses at numbers 41 and 43 Mill Lane would be much closer than the other existing dwellings to the site and be located opposite the proposed entrance to a driveway serving 2 of the proposed dwellings. The coming and going of cars into and out of these drives would be noticeable from these properties. However, any associated disturbance, for example from lights and noise, would be of insufficient frequency and duration to weigh heavily in the planning balance.
28. There is no substantive evidence before me to demonstrate that the proposal would cause an unacceptable level of harm to wildlife interests. The Council has also not drawn my attention to any local policies which would warrant imposing any requirements concerning rainwater harvesting or sustainability of design of the proposed dwellings.
29. I accept that substantial amounts of development have been approved recently in Houghton Conquest. I also note that it has been suggested that vehicular access would more suitably be gained from Chapel End Road. However, I must determine the current proposal on its own merits in accordance with the development plan and other considerations.
30. I have carefully considered all other matters raised by the parties. However, none of these weigh substantively in my decision.

Conditions

31. The Council submitted a list of suggested conditions for me to consider in the event of the appeal being allowed. The conditions in Annex A to my decision are based upon the Council's list but with some changes to ensure that they are precise and meet the other tests in paragraph 206 of the Framework. I have not included the Council's suggested condition 8, removing permitted development rights, as it is not clear that the exceptional circumstances required to justify such a condition, as set out in the Planning Practice Guidance² exist in this case.
32. My condition 1 is a standard time limit condition which is required to accord with the relevant legislation. My condition 2 lists the approved plans in the interests of certainty. My conditions 3, 4, 6 and 9, concerning external building materials, boundary treatments, landscaping and bin storage facilities are needed to protect and enhance the character and appearance of the area. I have revised the wording of conditions 4 and 6 to improve their enforceability and to avoid difficulties if the dwellings are occupied in a phased manner.
33. My condition 5, concerning site levels, is needed to ensure that the proposed dwellings would have an acceptable visual relationship with existing dwellings across Mill Lane from the site.
34. My conditions 7, requiring the provision of highway improvements to Mill Lane, and 8, concerning parking provision, are needed in the interests of the safety and convenience of users of Mill Lane. Whilst the illustrative plan referred to in

² Paragraph: 017 Reference ID: 21a-017-20140306

condition 7 shows works which would be outside the application site, the parties have confirmed that the relevant area is within the control of the Appellant. My condition 10 is required to ensure that adequate provision is made for drainage.

Conclusions

35. I have found that the proposal would create 7 new dwellings in a district which currently lacks a deliverable 5 year supply of land for new housing. Given the Government's objective of significantly boosting the supply of housing, and despite the modest scale of the proposal, this matter carries substantial weight in favour of the appeal being allowed.
36. I have also found that the proposal would not cause material harm to the character or appearance of the site and the surrounding area. Whilst I have carefully considered all other matters raised by the parties, none of these weigh substantially against the proposal.
37. Having carefully weighed the arguments for and against the proposal, I consider that the adverse impacts of allowing the appeal would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole. Whilst the proposal would not accord with Policy DM4 of the CSDMP, this Policy is out of date and the proposal would otherwise accord with relevant development plan policies. Paragraph 14 of the Framework therefore indicates that permission should be granted. The proposal would also be consistent with the pursuit of sustainable development as defined in the Framework.
38. For the reasons given above I conclude that the appeal should be allowed.

Jonathan Clarke

INSPECTOR

ANNEX A

LIST OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the approved plans listed in schedule A.
- 3) Notwithstanding the details which have already been submitted, no development shall take place until details of the materials to be used for the external walls and roofs of the proposed dwellings have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No development shall commence until details of the positions, type, design, and materials of boundary treatments have been submitted to and approved in writing by the local planning authority. The boundary treatment in respect of each dwelling shall be implemented in accordance with the approved details before the dwelling to which it relates is occupied, and retained thereafter.
- 5) No development shall take place until details of the existing and final ground and slab levels of the buildings hereby approved have been submitted to and approved in writing by the local planning authority. Such details shall include sections through the site and adjoining properties in accordance with details to be agreed in writing beforehand by the local planning authority. The development shall be carried out in accordance with the approved levels.
- 6) None of the dwellings hereby approved shall be occupied until a scheme of landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall include hard and soft landscaping, including proposed tree and hedgerow planting of appropriate species, and measures for its maintenance for at least 5 years following its implementation. The approved scheme shall be implemented in respect of any part of the site during the first full planting season (from 1 October until 31 March the following year) after the completion of any dwellings within that part. The landscaping shall be subsequently maintained in accordance with the approved scheme and any trees, shrubs or hedgerow plants which die or are destroyed in the maintenance period shall be replaced during the next planting season.
- 7) None of the dwellings hereby approved shall be occupied until the off-site highway works shown for indicative purposes on plan BD/2015-01/08 have been constructed in accordance with full engineering details which must firstly have been submitted to and approved in writing by the local planning authority. The works shall be carried out in full accordance with the approved technical specification and thereafter retained for its purpose.
- 8) None of the dwellings hereby permitted shall be occupied until access and parking facilities for that dwelling have been constructed in accordance with details which have previously been submitted to and approved in

writing by the local planning authority. These details shall include arrangements for surface water drainage from the site to soak away within the site so that it does not discharge into the highway or into the main drainage system.

- 9) None of the dwellings hereby permitted shall be occupied until bin storage container and collection facilities to serve that dwelling have been provided in accordance with details which have previously been submitted to and approved in writing by the local planning authority. These facilities shall thereafter be retained in accordance with the approved details.
- 10) No development shall take place until a scheme for the management of surface water drainage from the site has been submitted to and approved in writing by the local planning authority. The scheme shall be based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, carried out in accordance with BRE Digest 365, and shall include full design details and a future maintenance plan. The approved scheme shall be implemented and thereafter maintained in accordance with the approved details.

SCHEDULE A – LIST OF APPROVED PLANS REFERRED TO IN CONDITION 2

1. Site location plan (referenced BD/2015-01/06A)
2. Block Plan (referenced BD/2015-01/07D)
3. Site sections (referenced BD/2015-01/07D received by the Council on 18 May 2016 and BD/2015-01/23)
4. House types (referenced: BD/2015-01/11B; BD/2015-01/12A; BD/2015-01/13B; BD/2015-01/14A; BD/2015-01/15B; BD/2015-01/16A; BD/2015-01/17B; BD/2015-01/18A; BD/2015-01/19A; BD/2015-01/20A; BD/2015-01/21A; and BD/2015-01/22)
5. Tree survey report dated March 2016 and accompanying plans referenced BD/2015-01/08 and 200 Plan Rev A
6. Protected Species Survey dated November 2015 and updated On 2 June 2016
7. Sustainability Statement (Rev A) dated December 2015