
Appeal Decision

Site visit made on 8 May 2017

by S Harley BSc(Hons) MPhil MRTPI ARICS

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

Decision date: 9th June 2017

Appeal Ref: APP/P0240/W/17/3169863

Land adjacent to Hurst Grove and south of the Thomas Johnson Lower School, Lidlington MK43 0SB

- 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 V Pilla against the decision of Central Bedfordshire Council.
 - The application Ref CB/16/04455/OUT, dated 27 September 2016, was refused by notice dated 7 December 2016.
 - The development proposed is single detached dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The planning application was submitted in outline with all matters except for access reserved for consideration at a later stage.
3. At the time of the decision on the planning application the Council considered it could not demonstrate five years deliverable supply of housing land. A Five Year Housing Land Supply Statement dated 1 April 2017 has been published. In this the Council considers it can demonstrate 5.88 years of housing land supply. The appellant expresses reservations as to how the figures have been calculated.
4. The Supreme Court Judgment: Suffolk Coastal District Council v Hopkins Homes Ltd and SSCLG, Richborough Estates Partnership LLP and SSCLG v Cheshire East Borough Council was published on 11 May 2017¹. This relates to the application of the National Planning Policy Framework (the Framework) where the Council cannot demonstrate a five year supply of deliverable housing land. The parties have had the opportunity to comment on the judgement in relation to this appeal.

Main Issues

5. The main issues for this appeal are the effect of the proposal on the character and appearance of the area and whether satisfactory living conditions would be provided for future occupants of the proposed dwelling taking particular account of noise.

¹ [2017] UKSC 37 on appeals from: [2016] EWCA Civ 168, [2015] EWHC 132 (Admin) and [2015] EWHC 410 (Admin)

Reasons

6. Planning applications and appeals should be determined in accordance with the development plan unless material considerations indicate otherwise². The development plan comprises the Central Bedfordshire Core Strategy and Development Management Policy Document 2009 (the CS). The Framework states that housing applications should be considered in the context of the presumption in favour of sustainable development. The Framework identifies environmental, social and economic dimensions to sustainable development. All three dimensions need to be addressed.

Character and appearance

7. The appeal site is part of an open narrow rectangle of paddock adjacent to a railway line and between two other parcels of paddock land also owned by the appellant. Access is from the turning head of Hurst Grove near to the access to Thomas Johnson Lower School. Next to the adjoining land to the north east is a public footpath which crosses the railway line and then dwellings on Hurst Grove and Station Crescent. Beyond the appeal site is a large expanse of rolling, open countryside, which is dissected by the railway line.
8. The appeal site falls outside of, but adjacent to, the settlement envelope for the small village of Lidlinton. The appellant considers the appeal site to be somewhat arbitrarily located outside the envelope as the land is bounded on two sides by the school and the railway line. Whilst I acknowledge that, the site nevertheless forms the beginnings of the undulating, open countryside which extends west from Lidlinton. The school buildings are some distance away. Due to the shape and position of the appeal site a building on it would be likely to be much more prominent and intrusive than the school buildings.
9. I agree with the Council that the site lies on the periphery of the settlement, rather than close to the village core. Allowing the appeal would result in the introduction of a suburbanising form of development in the countryside. In the absence of detailed proposals I cannot safely conclude that a dwelling could be satisfactorily accommodated on the site without detracting from the open countryside character. Moreover, whether or not the fencing and gates are of poor quality or there are dilapidated sheds are not reasons for allowing an otherwise unacceptable proposal.
10. For the reasons set out above I conclude that the proposal would be likely to be a significant incursion of suburbanising built form, eroding the contribution the site makes to the character of the surrounding countryside. In harming the character and appearance of the area it would conflict with those parts of Policies DM3 and DM4 of the CS and those principles of the Framework that seek to protect the character and appearance of local areas and the intrinsic nature of the countryside.

Living conditions

11. The long side boundary of the appeal site adjoins the railway line. About half way along the appeal site the railway line is raised on an embankment. Due to the narrowness of the site and the height of the railway line, there would be noise and overlooking of the proposed dwelling and garden from passing trains. In the absence of evidence to the contrary, I cannot safely conclude that

² Section 38 of the Planning and Compulsory Purchase Act 2004

satisfactory sound attenuation measures could be provided to ensure that future occupants of the proposed dwelling and garden would have a good standard of amenity.

12. For these reasons I conclude that it has not been demonstrated that the satisfactory living conditions would be provided for future occupants. The proposal would therefore conflict with Policy DM3 of the CS, and those principles of the Central Bedfordshire Design Guide and the Framework that seek a good standard of amenity for all occupants of land and buildings. Accordingly it would fail to satisfy the environmental dimension of sustainable development.
13. Whether or not other properties experience disturbance from passing trains is not a good reason to allow the appeal proposal particularly as I note that the nearest properties on Hurst Grove are of similar levels to the railway line.

Other Matters

14. A colleague Inspector in dismissing a previous proposal for a nursery³ referred to the intention of upgrading the nearby substandard railway crossing and referred to the likely need to acquire the nursery appeal site to undertake those upgrades. Whilst I note that Network Rail appear not to have responded to the consultation on the planning application for a dwelling, had I been minded to allow the appeal before me I would have requested further information about the likely effect of the upgrade on the current appeal site. However, as I am dismissing this appeal for other reasons I do not need to consider the matter further.
15. The appellant has expressed dissatisfaction with the way the Council dealt with the planning application. However, this does not go to the heart of the planning considerations and I have reached my conclusions solely on the basis of the planning merits of the proposal.

Planning Balance and Conclusion

16. Planning policies can pull in different directions. I have found that the proposed development would conflict with the development plan and those principles of the Framework that seek to protect the intrinsic nature of the countryside. Nor has it been demonstrated that a satisfactory living environment could be provided for future occupants. Accordingly the proposal would fail to satisfy the environmental dimension of sustainable development. I give these matters great weight.
17. On the other hand there would be a small but positive contribution to the local housing stock whether or not the Council can identify a five year deliverable supply of housing land. There would be a small economic benefit arising from employment during construction and future occupiers could make a small contribution to the local economy and support the rural community. Due to their scale these matters carry limited weight in favour of the proposal.
18. In failing to comply with Policies DM3 and DM4 of the CS the proposal would not accord with the development plan taken as a whole. Taking all these matters into account, on balance, I conclude that adverse impacts of granting planning permission would significantly and demonstrably outweigh the

³ Appeal Ref APP/P0240/W/16/3143547

benefits when assessed against the development plan and the Framework taken as a whole.

19. For the reasons set out above, and taking into account all other relevant matters raised, I conclude the appeal should not succeed.

SDHarley

INSPECTOR