



Appeal Decision

Site visit made on 31 May 2017

by Helen Cassini BSc(Hons) DipTP MRTPI

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

Decision date: 29 June 2017

Appeal Ref: APP/P0240/W/17/3170803

Land adjacent to Sandy View, Shefford Road, Meppershall SG17 5LL

- 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 John Wiles against the decision of Central Bedfordshire Council.
 - The application Ref: CB/16/05715/FULL, dated 9 December 2016, was refused by notice dated 9 February 2017.
 - The development proposed is described on the application form as a proposed change of use from vacant plant nursery to residential together with detached dwelling and ancillary works.
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Decision

1. The appeal is allowed and planning permission is granted for a proposed change of use from vacant plant nursery to residential together with detached dwelling and ancillary works at land adjacent to Sandy View, Shefford Road, Meppershall SG17 5LL in accordance with the terms of the application, Ref: CB/16/05715/FULL, dated 9 December 2016, subject to the conditions set out in the attached scheduled.

Main Issues

2. The main issues are the effect of the proposal on:
 - (i) the character and appearance of the surrounding area; and
 - (ii) the living conditions of the neighbouring occupiers at The Pigling, with particular regard as to whether or not the development would be overbearing.

Reasons

Character and appearance

3. The appeal site is accessed from Shefford Road, via a private drive. It is located outside of the settlement of Meppenshall and is therefore defined as being within open countryside. It is however necessary to consider the local context. The proposal would be located on a site flanked by two existing residential dwellings, Sandy View to the east and The Pigling to the west. Mature woodland located to the west of the appeal site and the two existing dwellings provide a significant degree of screening. New Meppershall Care Home, a substantial 2-storey building, is located to the south of the site, with

open, relatively flat countryside to the north. Views from the road into the village from Shefford are significantly dominated by the presence of the care home. Development of 2 detached large properties was also underway close to the care home at the time of the site visit.

4. In setting out a presumption in favour of sustainable development, one of the core planning principles of the National Planning Policy Framework (the Framework) is to actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling. To promote sustainable development in rural areas, Paragraph 55 of the Framework envisages new rural housing to be located where it would maintain or enhance the vitality of rural communities. Consequently, new residential development should not normally be detached from being part of a viable and vibrant rural community, where there would be access to day to day facilities without the need to travel.
5. The proposal is also sited within an accessible location, with a bus stop a short distance away. Furthermore, services and facilities required for daily living, including a public house, village hall, convenience store, post office, school, church and bakery are all within walking distance of the site.
6. Policy DM4 of the Central Bedfordshire Core Strategy and Development Management Policies 2009 (the CS) seeks to restrict development in the countryside and forms part of the Council's strategic approach to the distribution and location of housing. The supporting text to the Policy DM4 states that settlement envelopes serve to prevent coalescence between settlements and reflect the character of the predominant land use.
7. The two neighbouring dwellings are of a single storey design. Although the proposal would be a storey and half dwelling, the increase in height would only be marginal. Furthermore, the design would generally follow the established building lines and the modest scale, style and proposed use of materials would not appear at odds with the existing dwellings. The dwelling would occupy a modest proportion of the appeal site, with a post and rail fence and hedgerow separating the remaining land. An additional landscape buffer is proposed at the rearmost boundary of the site. As such, the proposal would not appear as an incongruous feature and would be well assimilated into the locality.
8. The proposal would also effectively infill a gap between the two existing dwellings and would appear as a continuation of the built up residential area. Due to the modest scale, it would be in keeping with its immediate surroundings and would improve the character and appearance of the surrounding open countryside as a result.
9. At the time of the submission of the appeal, the Council accepted that a five year supply of housing land could not be demonstrated. However, following a quarterly update in April 2017, the Council contends that it is now in a position to demonstrate an ability to meet the five year housing supply within the borough. However, I agree with the appellant that this position has yet to be tested through the Local Plan process. As such, and with the limited evidence before me, I am not satisfied that a five year supply has been clearly demonstrated.
10. Paragraph 49 of the Framework advises that relevant policies for the supply of housing should not be considered to be up-to-date in situations where a local authority cannot demonstrate a five year housing land supply, and that housing

applications should be considered in the context of the presumption in favour of sustainable development. In circumstances where relevant policies are out of date, paragraph 14 of the Framework advises that planning permission should be granted, unless the adverse impacts of doing so significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.

11. As previously identified, the proposal would not appear as an isolated development within the countryside, as the site is adjoined by existing residential dwellings to the east and west, and a substantial care home to the south. Furthermore, the site is accessible in relation to local services and facilities required for daily living. It would also be accessible by sustainable modes of transport to the higher order services and facilities in larger towns such as Luton. Accordingly, I find no conflict with paragraph 55 of the Framework in respect of rural housing.
12. The proposal also complies with Policies CS14, CS16 and DM3 of the CS having regard to appropriate landscaping and high quality design which respects local context. Although it would be contrary to DM4 of the CS in relation to development in the countryside, it would not undermine the purposes of this policy which aims to maintain and sustain rural communities, ensure that development takes place in locations served by services, facilities and public transport and to protect the character and appearance of the countryside.
13. The policies relied on by the Council in its reasons for refusal are consistent with a core planning principle of the Framework, as they seek to ensure a well-designed development. I therefore attach significant weight to those development plan policies.
14. As such, despite the conflict identified in relation to DM4 of the CS, in this instance due to the specific characteristics of the site there would be very little harm by virtue of that conflict and the proposal would not undermine the overall development strategy of the area.

Living conditions

15. A significant separation distance exists between Sandy View and the appeal site, and the proposed landscaping would further screen the proposed dwelling. Accordingly, the proposal would not result in any significant harm to the living conditions of the existing occupiers of Sandy View.
16. The Pigling is a single storey static mobile home. Although the proposal would be a storey and half dwelling, due to the modest, traditional design it would not have much more of an imposing presence than compared with the structures it would replace. It is acknowledged that as the proposal would have a slightly higher ridge line than The Pigling, the first floor window in the west elevation side elevation would, to a degree, overlook The Pigling.
17. However, there would only be one window at first floor level in this elevation which would serve bedroom 4. As such, if I were to allow the appeal, I consider it would be reasonable and necessary to impose a condition which requires the opening of this window to be top hung only, in the interests of residential amenity.
18. The Council has raised concern in relation to the ground floor windows in the west side elevation. From the submitted evidence, the fenestration at this level

would serve the kitchen and utility room and would include one window and a glazed door with half window attached. However, The Pigling is sited approximately 8 metres from the location of the proposed dwelling and a considerable degree of existing domestic paraphernalia exists on the boundary of the Pigling. It is not therefore considered that any significant actual or perceived loss of privacy would result.

19. Accordingly, the proposal would comply with Policy DM3 of the CS. This policy seeks to ensure, amongst other things, that new development respects the amenity of surrounding properties. In addition, the proposal would also comply with one of the Framework's core planning principle of seeking to secure a good standard of amenity for existing occupants of land and buildings.

Other Matters

20. The representation made by the neighbouring occupier of The Pigling regarding the planning history of their site is noted. However, the issues regarding the tenancy agreement and existing service connections do not concern the planning merits of the case. Accordingly, I have not attached any weight to these matters and have considered the appeal before me on its individual merits.

Conditions

21. I have considered the conditions suggested by the Council against the tests of the Framework and advice provided by the Planning Practice Guidance (the PPG). I find most of them to be reasonable and necessary in the circumstances of this case; however some have been edited for precision and clarity.
22. In addition to the standard commencement condition, a condition is necessary requiring that the development is carried out in accordance with the approved plans in order to provide certainty. Conditions to secure appropriate external materials, refuse disposal facilities, boundary enclosures and landscaping are necessary in the interests of the protection of both residential amenity and the character and appearance of the area. A condition relating to fenestration in the first floor window in the west side elevation is required in the interests of residential amenity. Given the adequate separation distance and also that this is the only window to serve bedroom 4, it is not considered appropriate or necessary that obscured glass is utilised.
23. A condition relating to the provision of slab level information is considered appropriate in the interests of both visual amenity and the amenities of neighbouring properties. A condition relating to car parking is necessary to ensure adequate parking arrangements to minimise on-street parking in the interests of highway safety.
24. A condition regarding contamination is necessary to ensure that any risks to future users, neighbouring land and surrounding ecological systems are minimised. This is specified as a pre-commencement condition which is justified as it covers an important aspect of the development which requires consideration and control before any development commences.
25. A condition to remove permitted development rights from the new dwelling in relation to additional windows or doors on the west side elevation is not necessary. The PPG states that conditions restricting all permitted development rights 'will rarely pass the test of necessity and should only be

used in exceptional circumstances'. A clear justification for the removal of all permitted development rights has not been demonstrated.

Conclusion

26. I have found that the proposed development would accord with the policies of the development plan in all but one respect. That matter relates to the principle of preventing development in the countryside rather than to the detail of the scheme or its impacts. Thus, considering the development plan as a whole I find the scheme broadly accords with it.
27. Moreover, in this case the Framework is an important material consideration. The Council cannot demonstrate a robust 5 year housing land supply and so paragraph 14 leads me to a tilted balance in favour of the development. Other than the very limited conflict with policy DM4 in terms of the principle of development there are no other harms which weigh against the scheme. Thus, the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits of allowing this scheme albeit is only for a single dwelling. In these circumstances the material consideration before me in terms of the Framework is such that the development should be allowed contrary to policy DM4 of the CS.
28. For the reasons set out above, and taking account of all other matters raised, I conclude, subject to conditions, that the appeal should be allowed.

Helen Cassini

INSPECTOR

SCHEDULE 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 following approved plans: SVM/16/01 – Existing Site Plan; SVM/16/02B – Proposed Site Plan 02B; SVM/16/03A – House Type Plan.
- 3) No development, other than demolition works, shall take place until details of the materials to be used for the external surfaces of the development hereby approved, including the provision of bird and/or bat bricks, have been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details.
- 4) No development, other than demolition works, shall take place until a hard and soft landscaping scheme, including all boundary treatments, has been submitted to and approved in writing by the local planning authority. The scheme shall include details of existing trees to be retained and size, species, planting heights, densities and positions of any soft landscaping. All planting within the approved scheme shall be carried out before the end of the first planting and seeding season, following occupation of any part of the buildings or completion of the development, whichever is sooner. The development shall be implemented in accordance with the approved details and retained as such thereafter.

If, within a period of 5 years from the date of planting, the trees (or any trees planted in replacement) or shrubs to be planted as part of the approved landscaping scheme is removed, uprooted, destroyed or dies or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree of the same size and species as that originally planted shall be planted at the same place within the first planting season following the removal, uprooting, destruction or death of the original tree unless the local planning authority gives its written consent to any variation.
- 5) The development hereby permitted shall not be occupied until the first floor window in the west side elevation has been fitted with a top hung opening only. Details of the type of opening shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the top hung opening shall be retained thereafter.
- 6) Before the development hereby permitted is first occupied, details of enclosures and facilities for the storage of recycling containers and wheeled refuse bins, or other refuse storage containers where applicable, together with a satisfactory point of collection, shall be submitted to and approved in writing by the local planning authority. The refuse storage and collection areas shall be implemented in accordance with the details as approved under this condition prior to the first occupation and retained as such thereafter.

- 7) No development shall take place until a Phase 1 Desk Study report documenting the ground conditions of the site with regard to potential contamination has been submitted to and approved in writing by the local planning authority. This report shall adhere to BS10175:2011.

Where shown to be necessary by the Phase 1 Desk Study, a Phase 2 Site Investigation adhering to BS 10175:2011 shall be submitted to and approved in writing by the local planning authority.

Where shown to be necessary by the Phase 2 Site Investigation a detailed Phase 3 remediation scheme shall be submitted for approval in writing by the local planning authority. This scheme shall detail measures to be taken to mitigate any risks to human health, groundwater and the wider environment. Any works which form part of the Phase 3 scheme approved by the local authority shall be completed in full before any permitted building is occupied.

The effectiveness of any scheme shall be demonstrated to the local planning authority by means of a validation report (to incorporate photographs, material transport tickets and validation sampling), unless an alternative period is approved in writing by the local planning authority. Any such validation should include responses to any unexpected contamination discovered during works.

- 8) No development shall take place, other than demolition works, until details of the existing and finished slab levels in relation to existing ground levels of the development hereby approved have been submitted to and approved in writing by the local planning authority. Such details shall include section through both the site and adjoining dwellings, the location of which shall first be agreed in writing with the local planning authority. The development shall be carried out in accordance with the approved details.
- 9) The development shall not be occupied unless the parking scheme has been provided in accordance with the approved plan SVM/16/02B – Proposed Site Plan 02B. The parking areas shall thereafter be retained and kept available for the parking and turning of vehicles associated with the development.