
Appeal Decision

Hearing Held on 23 January 2018

Site visit made on 23 January 2018

by S Harley BSc(Hons) MPhil MRTPI ARICS

an Inspector appointed by the Secretary of State

Decision date: 1 February 2018

Appeal Ref: APP/P0240/W/17/3179844
30 Flitton Road, Greenfield MK45 5DJ

- 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 European Land Acquisitions Ltd., against the decision of Central Bedfordshire Council.
 - The application Ref CB/16/05667/OUT, dated 21 July 2016, was refused by notice dated 8 March 2017.
 - The development proposed is residential development of up to 15 dwellings (with all matters reserved except access), associated works and provision of on-site green space for wider community use. Resubmitted scheme following refusal of CB/16/03243/OUT on 20th October 2016.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. On the application form and decision notice the site location is described as set out above. At the Hearing it was confirmed that the site location is more accurately described as "land adjacent to 30 Flitton Road". I have considered the appeal on this basis.
3. The application is in outline only. All matters are reserved for future consideration except the point of access. Plan Ref 16-082-03A demonstrates one way in which the site could be developed and I have treated this as indicative only for the purposes of this appeal.
4. Since the appeal was submitted The Council have published the Five Year Land Supply Statement 2017 and appeals have been dismissed at Biggleswade Road Potton¹ and Readshill Quarry². Based on this evidence the parties agree that for the purposes of this appeal the Council can demonstrate 5.94 years supply of deliverable housing sites, excluding any unmet housing need of adjoining districts.

Background and Main Issue

5. The decision notice contains two reasons for refusal of the planning application. The second reason relates to the absence of a completed legal agreement under s106 of the Town and Country Planning Act 1990. A signed and sealed

¹ APP/P0240/W/17/3176444

² APP/P0240/W/16/3152707

agreement has now been provided (the s106 Agreement). On this basis I consider that the main issue for this appeal is whether the site is suitable for housing, having regard to location and the effect of the proposal on the character and appearance of the area.

Reasons

6. The development plan includes the Central Bedfordshire Core Strategy and Development Management Policies 2009 (the CS). I have been referred to emerging Local and Neighbourhood Plans. However, both are at an early stage of preparation. In accordance with Paragraph 216 of the National Planning Policy Framework (the Framework) I therefore accord little weight to Policies in either of these emerging plans. Although the CS is of some age, its Policies can be accorded weight according to their consistency with the Framework.
7. The site is located within the Mid Greensand Ridge Landscape Character Area (LCA) (MH/3). The LCA identifies that the area comprises villages with a consistent traditional intact character, which remain vulnerable to development and settlement expansion and the loss of individual identity.
8. Flitton Road is the principal east-west road through Greenfield to Flitton. The two settlements are linked by predominantly linear development along Flitton Road with several residential cul-de-sacs which comprise the wider local road network. The established forms of the villages are very irregular, with small segments of cul de sac development projecting into the countryside and with significant open gaps to Flitton Road which retain the separate identities of the villages.
9. Greenfield is designated as a Small Village under Policy CS1 of the CS. The site is outside the defined Settlement Envelope (the SE) for Greenfield and is within the countryside for development plan purposes. Policy DM4 of the CS states that within the SEs of small villages, development will be limited to small-scale housing and employment uses. The accompanying text to policy DM4 explains that outside of settlement boundaries, where the countryside needs to be protected, development is restricted to particular types in accordance with national guidance. I have seen no evidence to suggest that the proposal would be one of the exceptions under Policy DM4 and, as the appeal site lies outside the SE, the proposal would conflict with it.
10. The appeal site is a broadly rectangular piece of undeveloped land located adjacent to the village of Greenfield. It wraps around the side and rear garden of No 30 Flitton Road and adjoins the rear gardens of dwellings on Holmewood Road, all of which fall within the SE. To the east and south east of the site are open fields and an area of overgrown grassland with a balancing pond that is associated with development off Pulloxhill Road. The site boundaries are a mix of tall unmanaged hedgerows and fences, including a fence adjacent to the side wall of No 30. There is an existing access onto Flitton Road adjacent to No 30.
11. The main part of the site comprises rough grassland and an area formerly cultivated as an allotment. The stands of mature apples and other fruit trees in the north and south of the site have the characteristics of a traditional orchard. The submitted Arboricultural Assessment indicates that the trees are in generally poor condition. Although all matters except the point of access are reserved, it is likely that most of the hedgerow to the front would be affected by the creation of a suitable access and the associated visibility splays. The

proposal would not alter the existing field pattern overall but, as shown on the indicative plan, it appears to be necessary for hedgerows to be removed to provide for the necessary access and accompanying visibility splays. The indicative plan shows new planting along the boundaries and in two areas of public open space, but any replacement planting would take some time to become effective as screening. On this basis I conclude that the proposed development would be unlikely to be well screened in the landscape, at least for many years to come.

12. The appeal site is not a designated gap or landscape and I accept that effects on the wider landscape character of the LCA would be limited. However, the site forms a substantial part of one of the gaps in linear development along Flitton Road between Greenfield and Flitton. The openness and spaciousness of the site, together with that of the adjacent field and the balancing pond, combine to provide an open gap linking to the open countryside beyond. The loss of a substantial part of this currently undeveloped gap would erode the individual identity of this part of Greenfield to an unacceptable degree. I remain of this view even though some landscaping and two small areas of public open space would be provided within the site. I conclude the proposal would conflict with Policy CS16 of the CS in failing to conserve the varied countryside and local distinctiveness in accordance with the LCA.
13. The proposed development would have a suburbanising effect on an undeveloped site. It would substantially erode the positive contribution the site makes to the locally distinctive character of the existing pattern of development punctuated by open gaps and spaces that forms the landscape setting of Greenfield and Flitton. I remain of this view whilst acknowledging that the two settlements are encompassed within one SE, which, in this part of Flitton Road is predominantly limited to the width of one house and garden on the opposite side of the road to the appeal site.
14. Although the layout plan is indicative only, there are limited ways in which the appeal site could be developed for the detached and semi-detached dwellings, of similar height to existing two storey properties along Flitton Road, envisaged in the Design and Access Statement. The bungalows on Holmewood Road currently provide a gentle transition in heights between the taller buildings in the village and the countryside beyond. The proposed development would interrupt this to the detriment of the openness and setting of the village and would not amount to good design. Accordingly, whilst I consider that an appropriate design which would meet most of the requirements of Policy DM3 could be devised, the likely height of the proposed buildings would not be appropriate in the proposed location and the proposal would therefore conflict with the first bullet point of Policy DM3 of the CS.
15. For the reasons set out above I conclude the appeal site would not be a suitable site for housing in terms of location outside the SE. Moreover, the proposal would cause significant harm to the character and appearance of the area. It would conflict with Policies DM4 and CS16 and part of DM3 of the CS which, amongst other things, do not allow for such development outside the SE, require new developments to be appropriate in terms of scale and design to their setting, and to conserve and enhance the quality and integrity of the built and natural environment. I address the planning balance below.

Other Matters

16. Orchard and hedgerows are UK Biodiversity Action Plan Priority Habitats and often support a wide range of wildlife. Although the indicative site layout Ref 16-082-03A shows few trees retained, either within the site or along the site boundaries, there would be retention of some and the proposals include additional and re-placement planting including two areas of retained orchard as public open space. The Council raises no objections subject to the recommendations in the Ecological Survey being secured by appropriate conditions. The Framework states that, in determining planning applications, local authorities should aim to conserve and enhance biodiversity. In my judgement the likely loss of habitat that would arise from the proposal would balance against the benefits of the proposed replacement planting and management. On this basis I consider that the effect on biodiversity over time would be neutral in this case and weighs neither for nor against the proposal.
17. There are a number of local services and facilities which are clustered between the two villages. The site lies within 250 metres of Greenfield Village Hall and sports ground, which includes playing pitches and a children's play area. There is a public house, Parish Church and Pulloxhill Business Park within cycling distance of the site. The nearby town of Flitwick has a number of essential services and amenities including a mainline railway station. Although the bus service through Greenfield is relatively limited, I consider that future occupants of the proposed development would have reasonable access to services and facilities without relying solely on the private vehicle.
18. The s106 Agreement makes provision for 5 affordable houses which would meet the requirements of Policy CS7 of the CS. It also provides for a contribution towards local education facilities which would accord with Policy CS2 of the CS. I note that the affordable housing would be a benefit of the scheme and that the education provision would mitigate the effects on local schools. However, as I am dismissing the appeal for other substantive reasons I do not need to consider the Agreement in any more detail for the purposes of this appeal.
19. My attention has been drawn to a significant number of appeal decisions. The appellant confirmed at the Hearing that the relevance of most of these relates to the question of housing land supply; these can be disregarded for the purposes of this appeal. However, I consider in more detail the appeals local to the current appeal site.
20. An appeal at land off Greenfield Road, Flitton³ was allowed in November 2016. The circumstances of that case are different in that the Inspector drew different conclusions in relation to the effect on character and appearance due to layout, retention of hedgerows, landscape buffer to the countryside, single storey scale of part of the proposal and five year housing land supply. During my site visit I observed houses being constructed on land at the rear of 50 Flitton Road. That scheme was allowed at appeal⁴ in May 2017. However, that case was different to the one before me in that the dwellings replaced existing buildings.

³ APP/P0240/W/16/3154220

⁴ App/P0240/W/17/3167118

21. An appeal was recently dismissed on land adjacent to 50 Flitton Road⁵. That site adjoins the long boundary of the appeal site before me. That proposal is similar to the current appeal, being for sixteen dwellings on a slightly larger site, in the same open gap. I acknowledge that the indicative plan for that proposal would have six dwellings fronting Flitton Road and would have no public open space. However, that in itself, does not lead me to any different conclusions in relation to the appeal before me.
22. It has been asserted that allowing the proposal could set an undesirable precedent which would make it difficult for the Council to resist similar development elsewhere. Whilst each application and appeal must be considered on its own merits, I consider there to be a reasonable prospect of similar development proposals being put forward nearby which, if allowed, would further erode the open gaps around Greenfield to the further detriment of the character and appearance of the area. However, I have reached my decision on this appeal solely on the basis of the planning merits of the proposal before me.
23. I acknowledge that the proposal has been reduced in terms of numbers of dwellings compared to previous proposals. However, this in itself is not a material planning consideration and I have based my decision on the planning merits of the proposal.
24. A number of other matters have been raised including increase in the amount of traffic, highway safety, flooding and the effects on the living conditions of adjoining residents. However, given my findings on the main issue, and as the Council have raised no objections in relation to these matters, I need to consider them no further in relation to the appeal before me.

Planning balance and overall conclusion

25. Planning applications and appeals should be determined in accordance with the development plan unless material considerations indicate otherwise⁶. An important material consideration is the fourth bullet point of paragraph 14 of the Framework wherein the 'tilted balance' would apply if the development plan is silent or relevant policies are out of date.
26. The parties agree that the Council can demonstrate in excess of a five year supply of deliverable housing sites, excluding unmet need for Luton, for the purposes of this appeal. Therefore, on this evidence, under paragraph 49 of the Framework, the relevant policies for the supply of housing should be considered to be up to date and the 'tilted balance' does not apply.
27. The appellant accepts that the unmet housing need for Luton is a matter for a future Inquiry into the emerging LP⁷ but considers it is likely to be quite significant and that, most likely, will have to be met in Central Bedfordshire. The unmet need is not irrelevant, and any contribution to meeting it is a potential benefit in favour of the proposal.
28. I have found that the proposal does not accord with Policy DM4 of the CS. Policy DM4 is consistent with the Framework in that recognising the intrinsic character and beauty of the countryside is one of the core planning principles

⁵ APP/P0240/W/17/3173864 13 September 2017

⁶ Section 38 of the Planning and Compulsory Purchase Act 2004

⁷ Paragraph 23 of the Biggleswade appeal

at Paragraph 17 of the Framework. However, Policy DM4 essentially seeks to only support development within the SEs. No provision is made for the assessment of impact or the possible need to build in the countryside to deliver housing.

29. As a matter of planning judgement and in the context of the “narrow” approach put forward in the Supreme Court *Suffolk Coastal* judgement⁸ in relation to relevant policies for the supply of housing, I consider that Policy DM4 of the CS is not a policy for the supply of housing. However, Policy DM4, whilst a relevant policy, is not fully consistent with the policies of the Framework, which seek to recognise the intrinsic character and beauty of the countryside rather than to specifically ‘protect’ it. In such circumstances, given this inconsistency, I afford moderate conflict with this Policy in accordance with Paragraph 215 of the Framework.
30. I have found that the proposal would also cause significant harm to the character and appearance of the area and would conflict with Policy CS16 and part of Policy DM3 of the CS. These contain criteria against which to judge the quality of a proposed development and the impact on landscape and woodland. I consider that these policies are broadly consistent with those of the Framework, and should, therefore, be afforded significant weight.
31. The proposal would provide a small but positive contribution towards the supply of housing, including affordable housing, within Central Bedfordshire and towards unmet need in adjacent areas. There would also be some economic benefits in terms of employment during construction and additional spending in the local economy by residents of the proposed dwellings. Future occupants of the proposed dwellings would have reasonable access to services without relying solely on the private vehicle. However, even taken together, I consider that the harm that I have identified is not outweighed by the benefits of the proposed housing and the associated economic benefits on a site outside the SE. I remain of this view even if the ‘tilted balance’ of Paragraph 14 of the Framework were to apply.
32. In failing to comply with Policies DM4, CS6 and part of DM4 the proposal cannot comply with the development plan taken as a whole. Paragraph 17 of the Framework emphasises the principle of a plan-led system. Even taking account of the benefits set out above, I do not consider there to be any material considerations that would warrant a decision other than in accordance with the development plan. I therefore conclude, on balance, that the appeal should not succeed.

S Harley

INSPECTOR

⁸ Shropshire Council and SoS CLG, et al, [2016] EWHC 2733 (Admin)

APPEARANCES

FOR THE APPELLANT:

Matthew Collerson	CC Town Planning
Raymond Buckingham	Land Owner

FOR THE LOCAL PLANNING AUTHORITY:

Matthew Heron	Principal Planning Officer
---------------	----------------------------

INTERESTED PERSONS:

Bob Rishton	Flitton and Greenfield Parish Council
Mark Gates	Flitton and Greenfield Parish Council
Nick Thompson	Flitton and Greenfield Parish Council
Bernie Stack	Local Resident
Mike Fisher	Local Resident
M Cox	Local Resident
Sue Cox	Local Resident

DOCUMENTS PROVIDED AT OR AFTER THE HEARING

- 1 Flitton, Greenfield & Wardhedges Inset 22 Local Development Framework (North) Proposal Maps
- 2 7.16 Land between Flitton and Greenfield (CG16) Extract from emerging Local Plan
- 3 Emails from the appellant and the Council with proposed additional conditions
- 4 Planning obligation pro forma - Land off Flitton Road, Greenfield, Bedford, MK45 5DJ
- 5 Email from the Council providing definitive copy of Policy DM4 of the Core Strategy