



Appeal Decision

Site visit made on 3 April 2019

by E. Brownless, BA (Hons), Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 18th July 2019

Appeal Ref: APP/K0235/W/18/3205617

Slaters Arms, 97 Box End Road, Kempston, MK43 8RS

- 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 J Kotecha against the decision of Bedford Borough Council.
 - The application Ref:17/00305/OUT dated 3 February 2017, was refused by notice dated 15 May 2018.
 - The development proposed is described as 'erection of a single dwelling with associated parking and ancillary works. Alterations to existing parking arrangements for public house'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was made in outline with all matters except access reserved for future determination. I have considered the appeal on this basis and I have treated the submitted proposed site plan as indicative only apart from the access.
3. The parties advise that the emerging Local Plan has been submitted for public examination. However, as it is yet to be found sound and adopted, I therefore attach only limited weight to it.

Application for costs

4. An application for costs was made by Mr J Kotecha against Bedford Borough Council. This application is the subject of a separate Decision.

Main Issues

5. I have a statement of common ground from the appellant that has not been signed by the Council. Accordingly, the main issues in this case are:
 - i) whether the appeal site is a suitable location for a dwelling having regard to the settlement strategy and the accessibility of services and facilities; and
 - ii) the effect of the proposal on the character and appearance of the countryside;

Reasons

Settlement strategy and the accessibility of services

6. The development plan includes the Bedford Borough Council Development Plan Document Core Strategy & Rural Issues Plan (CSRIP) which was adopted in 2008. CSRIP Policy CP1 sets the Council's spatial strategy and indicates that sustainable levels, locations and forms of development will be sought in accordance with the objectives and policies of the CSRIP.
7. The CSRIP also sets the Council's settlement hierarchy, dividing the Borough into Growth Areas, where development will be focussed in the interests of achieving sustainable development, or secondly, within Rural Protection Areas (RPA). There is no dispute that the appeal site falls within the RPA and that the appeal site lies within the countryside for the purposes of planning policy. Within these areas, only development that is consistent with the National Planning Policy Framework (Framework) or countryside policies within the development plan will be permitted. In the absence of anything to suggest that the proposal would be consistent with countryside policies, the proposal would conflict with CSRIP Policies CP13 and CP14 and Policy H26 of the Bedford Borough Local Plan (2002)(LP), insofar as these policies seek to control development within the countryside and direct it to within or on the edge of key service centres.
8. Paragraph 103 of the Framework states that the planning system should actively manage patterns of growth but recognises that opportunities to maximise sustainable transport solutions will vary from urban to rural areas.
9. The appellant recognises that there are almost no local services or facilities within Box End, albeit I note the existence of some leisure opportunities at Box End Park. As a consequence, future occupiers would need to travel further afield to access day-to-day needs such as employment, shopping, leisure and education.
10. Bromham is located some 3.8km from the appeal site, taking the Council's measurements, which have not been disputed by the appellant. It is identified as a key service centre. Although there are a variety of services and facilities in Bromham these are located further away with the nearest shop being located some 260 metres further into Bromham itself. Notwithstanding the availability of a footway, it is along a largely uninhabited rural road and would require a pedestrian to cross the highway on at least one occasion. Taken together with an absence of street lighting and the distance required to access the services and facilities of Bromham, to my mind, it is unlikely that anyone would attempt to walk this route, particularly anyone with a young child, pushchair or wheelchair and during inclement weather or at night.
11. Furthermore, at the time of my site visit I observed that there was a fairly constant flow of traffic along Box End Road, which included vans and heavy goods vehicles. Whilst I appreciate that my site visit provided only a snapshot of highway conditions, I saw nothing to suggest that this was untypical. On leaving the built-up environment of Box End, the speed limit increases to 40mph and taken together with the volume of traffic along this length of road I consider that it is also unlikely that cyclists would perceive the route as an attractive and safe environment, particularly inexperienced ones and children.

12. A bus service connecting Box End to Bedford and Ampthill operates Monday to Saturday, albeit only twice per day. Whilst this service would provide access to employment, shopping, leisure and education, the limited regularity of the service and the times of collection and drop-off reduces its potential as an alternative mode of transport.
13. Accordingly, I consider that walking and cycling to the services and facilities of Bromham would not be perceived as safe and convenient by future occupiers of the dwelling. Therefore, I do not consider that the route would be used on a regular basis for walking and cycling nor that the location would be well served in terms of provision for walking, cycling and public transport. As such, future occupiers would be highly dependent on travel by private car to access services and facilities.
14. Therefore, the proposal would fail to accord with CS RIP Policy CP14, the requirements of which are set out above. The proposal would also conflict with provisions of the Framework which seek to promote sustainable transport. Furthermore, the proposal fails to adhere to the guidance of the Manual for Streets which defines 'walkable neighbourhoods' as those that have a range of facilities within 10 minutes or the equivalent of some 800 metres walking distance.

Character and appearance

15. The appeal site is located opposite the junction of Box End Road with West End Road towards the mid-point of the settlement of Box End. Dwellings are broadly arranged in a linear pattern along the edge of the highway and are situated towards the front of their plots. The proposal would be sited behind the existing Public House (PH) within the rear part of the appeal site where the site boundaries abut garden curtilages of neighbouring dwellings and agricultural lands lay beyond. However, to its side, dwellings are positioned along a private road. I saw that as a consequence of its physical characteristics, the appeal site has considerably more affinity with the adjacent dwellings and PH than the open countryside beyond. As such, I am satisfied that a dwelling on the appeal site would not be seen as isolated in terms of its physical context and would not be seen as out of character with its environs.
16. Given that the appeal site currently consists of a public house, which is to be retained, and car parking and outdoor space for the use of patrons, it is not an intrinsically open or undeveloped parcel of land. In addition, by reason of mature vegetation along the rear and side boundaries of the appeal site, it is largely obscured from views from the wider countryside. A condition to secure retention and additional planting of vegetation would further assist to screen the proposal. The proposal would be well related to the existing built form within the appeal site and nearby. Taken together with its relative seclusion from the countryside, I find that the proposal would not be viewed as an unacceptable intrusion into the countryside.
17. As the application is in outline with all matters, save for access, reserved for future determination, the scale of the dwelling is not known at this stage. However, I consider that a dwelling could be accommodated on the site without material harm to the character and appearance of the countryside. Therefore, it would not conflict with LP Policy BE30 and CS RIP Policy CP21. Among other things, these policies require high quality development to have regard to visual impact, its relationship with the context within which it will sit and the

contribution the building will make to the townscape and landscape qualities of the area.

Other Matters

18. The PH is currently not in use. In support of the application the appellant states that the proposal would generate a capital contribution that would be used to refurbish the PH to bring an important local business back in to use and to maximise its commercial prospects. Consequently, the appellant relies on this as a significant benefit both locally and wider afield.
19. A viability appraisal (VA) by Trinity Solutions Consultancy Ltd, dated 30 November 2016 and a unilateral undertaking dated the 20 March 2019 have been provided by the appellant. The Council is in agreement that a subsidy is required to bring the PH back into use. However, there are a number of areas of dispute between the parties regarding the key metrics used within the VA. I am unable to determine definitively on these based on the evidence before me.
20. Furthermore, the UU merely provides a mechanism for ensuring that works to the PH are carried out before commencement of development of the proposed dwelling. There is no mechanism in place to prescribe the level of receipt to be used towards the PH works, whether this be the disputed 75% value, or a greater value, nor does it commit the appellant to the extent of the works to be undertaken. Although the UU makes reference to a 'specification for all internal works', this is subject to the future agreement of the Council rather than being based upon the detail accompanying the VA. There is no requirement within the UU that requires an operator to being engaged on provisions that secure its long-term future and as such, on the evidence before me, I do not find that the UU would achieve the necessary purpose.
21. I am mindful that CS RIP Policy CP18 seeks to assist the continued viability of the rural economy and support for the sustainability of local services such as public houses. In addition, I have had regard to the Framework provisions concerning support for a prosperous rural economy. However, in order to attach significant weight to the benefit of bringing the PH back into use and the associated benefit of enhancing the vitality of the rural community, the proposal needs to clearly demonstrate that it would achieve this outcome.
22. The appellant has drawn my attention to a number of other public houses in the locality where residential development has subsidised the public house. However, I have little information relating to the particular circumstances of these developments and whether the circumstances are therefore comparable to the appeal proposal. As such, a comparison is of limited relevance in this instance and I have considered the appeal before me on its individual planning merits.
23. Reference has been made to the proposal allocating sufficient space for patron parking and a garden area. However, the proposal is in outline form and as such a detailed consideration of these matters cannot be undertaken at this stage. For similar reasons, a detailed analysis of the impact of noise on the proposal cannot be fully considered.

Overall conclusion and planning balance

24. The Framework states that local planning authorities should avoid the development of isolated homes within the countryside. However, given the

proximity of other dwellings to the appeal site, I do not consider that the proposal would be isolated and therefore the restrictions set out in paragraph 79 of the Framework do not therefore apply.

25. The Council are unable to demonstrate a five-year supply of land for housing. In such circumstances, the Framework indicates that where relevant policies are out-of-date planning permission will be granted unless material considerations indicate otherwise, taking into account whether: any adverse impacts of planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole (the tilted balance test); or, specific policies in the Framework indicate that development should be restricted. Footnote 7 is clear that applications involving the provision of housing where the local planning authority cannot demonstrate a five-year supply of housing will render the most important policies out of date. In this regard, CS RIP Policy CP14 is out of date and as such the tilted balance test is engaged.
26. I have concluded that the proposal would not harm the character or appearance of the countryside. However, the adverse impact relates to the harm arising from the appeal site's unsuitable location with poor access to services and facilities. In my judgement, this harm carries substantial weight. In terms of benefits, the construction of an additional dwelling makes a modest contribution to housing supply. On the evidence provided to this appeal, the Council is currently not able to demonstrate an adequate supply of housing which adds weight to the social benefits which this proposal might bring through the provision of an additional dwelling.
27. The appellant suggests that there are other benefits arising from the appeal which I have considered in turn. I have had regard to the cost of construction, use of local materials and services together with an increase in expenditure within the locality by future occupants of the proposed dwelling. However, none of these amount to more than limited weight either individually or collectively.
28. I have found that there would be environmental harm from the appeal site's unsuitable location with poor access to services and facilities. In this regard it would be in conflict with development plan policies CS RIP Policy CP14 and the Framework. These are matters to which I attach significant weight. Whilst this proposal would deliver social and economic benefits they would, to my mind, be significantly and demonstrably outweighed by the adverse effect of the environmental harm identified.
29. Given the above, the proposal should also be assessed on the basis of the tilted balance set out at paragraph 11 of the Framework which is a material consideration. On this point I have found that the harm from the scheme would significantly and demonstrably outweigh the benefits of the provision of an additional dwelling. As such, the Framework is a material consideration which also weighs against the proposal. Therefore, in the circumstances of this appeal the totality of the other material considerations does not justify making a decision other than in accordance with the development plan.

Conclusion

30. For the reasons given above and having regard to all matters raised, I conclude that the proposal would conflict with the development plan and the core

principles of promoting sustainable transport as set out in the Framework. There are no material considerations of sufficient weight to outweigh that conflict. I therefore conclude that the appeal is dismissed.

E Brownless

INSPECTOR