



Appeal Decision

Site visit made on 1 July 2019 by G Sibley MPLAN MRTPI

Decision by A U Ghafoor BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 July 2019

Appeal Ref: APP/Y0435/W/19/3226436

35-36 Walnut Tree Cottage, land adjacent 35-36 Tathall End, Hanslope MK19 7NF

- 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 Humphries against the decision of Milton Keynes Council.
 - The application Ref: 18/01889/FUL, dated 30 July 2018, was refused by notice dated 23 October 2018.
 - The development proposed is two detached dwellings and associated parking spaces.
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Decision

1. The appeal is dismissed

Procedural Matters

2. Following the submission of the appeal, Milton Keynes Council have adopted the Plan: MK which has replaced both the Adopted Milton Keynes Local Plan 2001-2011 (LP) and Milton Keynes Core Strategy (CS) which the application was determined against. The Council have identified which policies in Plan: MK are most relevant to the determination of this appeal in their Written Representation Statement and supersede those referred to in the decision notice. The appellants had the opportunity to comment on these new policies in their final comments. I will proceed on this basis.

Appeal Procedure

3. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issue

4. These are as follows: (1) whether the site is a suitable location for the proposed development, (2) whether the proposed development would be safe from flooding, and (3) the effect of the proposed development upon protected species, in particular Great Crested Newts.

Reasons for the Recommendation - First main issue

5. There are residential properties within Tathall End and there are houses near the site. Nevertheless, it is identified as being located within the open countryside beyond the settlement. The Council have identified that Tathall End has limited services and facilities. The nearest settlement is Hanslope and there are several services and facilities available within that settlement, which is approximately 1 mile from the appeal site. However, the main road between the two settlements is unlit and does not have a paved

pedestrian footpath along it. The walk would be unappealing for future occupiers of the dwellings given the distance and tortuous route. There does not appear to be a bus stop nearby and, as such, future occupiers of the new dwellings would be reliant on use of the private car to meet their day-to-day needs. This would result in frequent journeys by car. Over-reliance on private mode of transport to access local facilities and services would not be sustainable and would be at odds with the aim of reducing car journeys.

6. Policy DS5 of Plan: MK identifies several developments which the Council would consider granting permission for within the open countryside. The appeal proposals do not meet any of the requirements set out in Policy DS5. The appellants have referred to an application that was approved within Tathall End by the Council (Ref:17/02270/OUT). Nonetheless, the scale and kind of development proposed would be unsuitable given the site's location. Whilst there may be similarities between the two sites, each case must be determined on their own merits. The Council granting permission for a similar scheme does not justify granting permission elsewhere.
7. I find that the site is not a suitable location for the scale of residential development proposed, and it would be contrary to Policy DS5. It would also be contrary to paragraph 79 of the National Planning Policy Framework.

Second main issue

8. Parts of the site have been identified as being at risk of 1 in 100-year surface water flood extents. The appellant has not repositioned the dwelling that is located within the area at risk of the 1 in 100-year surface water flood extent and as such it would potentially be at risk of flooding. The scheme may increase the flood risk to the surrounding area given the scale of development.
9. The appellants have provided photographic evidence of the 2007 flood event within their Flood Risk Assessment (FRA) produced by Wicken Design Associates. The FRA shows that the road through Tathall End, from where the site would take its main vehicular access from, was affected by flood water. The site is on higher ground than the road and, based on the pictures, it is difficult to determine with certainty if it was flooded in 2007. Insufficient evidence has been submitted to show that the site would not be at risk from flooding given its location and position. Additionally, a detailed sustainable urban drainage strategy has not been provided. Given that the site is in an area at risk from surface water flooding, a strategy would be required. It would not be appropriate to address this matter with a planning condition because of the nature of the development.
10. The appellants have provided possible mitigation measures within the addendum to the FRA. These include signing up for flood warnings; fully sealable uPVC flood doors; maintaining a stock of flood stacks; air block covers and ground floor toilet seats. The appellants have not provided detailed plans of how they could be delivered on this site and such insufficient information have been provided to confirm whether they would alleviate the flood risk to the site and the surrounding area. Without a detailed drainage strategy, the proposed development would be at risk from flooding.
11. I find that insufficient information has been provided to show that the future occupants would not be at risk from flooding given the site's location. The development would be contrary to Policy F1 of Plan: MK and would also be contrary to paragraph 155 of the Framework.

Third main issue

12. The Council have identified that the site is located within a high-risk zone and a priority conservation zone for Great Crested Newts, which are European Protected Species and

are subject to a high level of protection. The appellants have not undertaken an appropriate survey to fully assess the potential impact of the proposed development on the identified protected species. The evidence presented does not show that residential development of the site would have no impact upon the protected species and, if any harm arises, provide suitable mitigation. This matter cannot be reasonably addressed by imposing a planning condition given the uncertainty about the potential effect of the development upon protected species. The proposed development would be contrary to Policy NE2 of Plan: MK and paragraph 175 of the Framework. I find that insufficient evidence has been presented to show that the proposed development on the site would not have an adverse impact upon protected species.

Other Matters

13. There would be some economic and social benefits arising from the residential scheme, but the site is unsuitably located. When the application was determined, the Council could not identify a 5-year housing land supply (HLS) and such the tilted balance was applied. Since the submission of the appeal the Council have provided me with evidence that it can now identify a 5-year HLS. The appellants have not provided any evidence to substantiate that the Council cannot identify a 5-year housing land supply. Even if there is a shortfall in HLS, given my findings elsewhere, the evidence presented does not clearly show that the adverse impacts arising from the residential development proposed would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Conclusion

14. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

G Sibley

APPEAL PLANNING OFFICER

Inspector's Decision

15. I have considered all the submitted evidence and the Appeal Planning Officer's report, and, on that basis, I too agree that the appeal should be dismissed.

A U Ghafoor

INSPECTOR