
Appeal Decision

Site visit made on 24 April 2019

by P J Staddon BSc, Dip, MBA (Distinction), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 August 2019

Appeal Ref: APP/K0235/W/18/3217586

65A Renhold Road, Wilden, Bedfordshire, MK44 2PX

- 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 Kulwinder Rai against the decision of Bedford Borough Council.
 - The application Ref 18/02197/OUT, dated 3 August 2018, was refused by notice dated 28 November 2018.
 - The development proposed is described as 'Outline Planning Application for a single, self-build dwelling with detached garage on a derelict former car park with all matters reserved.'
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the appeal site would provide a suitable location for the proposed dwelling, having regard to the spatial strategy set out in the development plan and the National Planning Policy Framework (the Framework).

Procedural Matters

3. The address of the site is stated as 65A Renhold Road, although this address is actually the property to the east of the red lined appeal site. Whilst I do not consider it necessary to change the address, I have made my assessment on the basis of the submitted plans which define the site and its boundaries.
4. The proposal is also supported by indicative drawings showing a site layout and dwelling design. The plot shown on the indicative plan appears to be larger than shown by the red line on the site location plan.
5. The indicative layout also suggests works and landscaping on land outside the application site, but within land controlled by the applicant. Whilst I have noted these indicative intentions, the application is submitted in outline with all matters reserved and, as a result, my assessment relates to the red lined appeal site.

Reasons

Background

6. The appeal proposal seeks outline planning permission, with all matters reserved, to construct a dwelling and garage. The appeal site is part of the former car park that served a now redundant butterfly park tourist attraction situated in a rural location. The butterfly park was granted permission in 1997 and included a reception building with café, shop and toilets and open areas. The open areas included a car and coach park (part of which comprises the current appeal site), a children's playground and informal recreational areas. The attraction opened in 1999 but ceased operating in 2010, as the business had failed to achieve financial viability.
7. Since the closure of the business, there has been a series of planning applications and appeals for residential developments on sites within the former grounds of the park. The Council approved the conversion of the main reception building to a dwelling under its reference 12/02007/FUL and, when I visited the site, it was apparent that the building is now in residential use, although much internal conversion work is yet to be completed. In making that decision the Council assessed that, notwithstanding its countryside location, the dwelling conversion would enhance the immediate area. The application site for that dwelling included about half of the area of the original butterfly park, but did not include the western part of the site where the former car park is located. On my site inspection, I noted that there is no clear boundary treatment defining the residential curtilage (approved under 12/02007/FUL) from the adjacent former car park site.
8. An application for 2 detached houses on the former car park was refused by the Council in 2014 and a subsequent appeal¹ was dismissed in September 2014 (the first appeal). An outline application for 4 dwellings, again on the former car park, was refused in 2015 and a subsequent appeal² dismissed in August 2016 (the second appeal). In both cases, the Inspectors judged that the proposed developments in the open countryside would be contrary to national and local policies on the location of housing and found no compelling reasons to set aside those policies of restraint.
9. The Council also refused an outline application for a single dwelling within the residential curtilage of the newly created reception building dwelling (approved under reference 12/02007/FUL). A subsequent appeal³ was allowed in June 2018 (the third appeal), the Inspector assessing that this garden site met the definition of previously developed land and that it would not be contrary to the relevant development plan policies or national guidance. There was also a dismissed appeal⁴ in 2017 relating to a proposal to convert some of the former butterfly park's outbuildings to a dwelling.
10. Whilst each case must be determined on its own merits, I have had regard to these previous decisions, which feature significantly in the submissions made by the appellant and the Council, in the determination of this appeal.

¹ APP/K0235/A/14/2216532

² APP/K0235/A/16/3150866

³ APP/K0235/W/17/3191070

⁴ APP/K0235/W/17/3173076

Location

11. The appeal site comprises a roughly square plot of land in the north-east corner of the former car park of the redundant butterfly park, along with the existing access route to it. The Inspectors in respect of the first and second appeals assessed that the former car park did not constitute previously developed land, as defined in the glossary in the Framework, noting that it was surfaced in permeable loose materials with an open and rural character. Whilst I have considered carefully the submissions of the appellant on this matter, I share the assessment of the earlier Inspectors with regard to the status of the current appeal plot. As a result, I do not need to explore national and local planning policy considerations in respect of previously developed land.
12. The site occupies a rural location to the north-east of Bedford and well beyond its built-up area. There are other buildings and dwellings along this part of Renhold Road, but they are dispersed and typically separated by notable gaps, such that they could not be regarded as forming a residential hamlet or 'settlement'. The Inspector on the second appeal reached a similar view in this regard.
13. There are some services and facilities in the locality and in the wider area. There is a farm shop several hundred metres to the south of the site, which sells a range of groceries. Wilden is a small village about 1 kilometre to the north of the site, although the distance by the only road connection via Renhold Road is around 1.5 kilometres; it has some limited facilities including a school. Ravensden is another small village, situated about 1.25 kilometres to the west of the site as the crow flies, but the routes to it by road are circuitous and lengthy; it also has some limited facilities, including a primary school. A wider range of services and facilities can be found at the larger village of Great Barford, which is situated about 4 kilometres to the south-east of the site, and within the urban area of Bedford, the town centre of which is some 6.5 kilometres to the south-west.
14. In planning terms, the appeal site is situated outside any defined settlement boundary and falls within the open countryside and within the Council's designated Rural Policy Area (RPA).
15. The Bedford Borough Council Core Strategy and Rural Issues Plan 2008 (the CS) seeks to manage growth positively and focuses development principally on the urban area and its extensions to encourage sustainable development. CS Policy CP1 sets out a high level spatial strategy which seeks sustainable levels, locations and forms of development in accordance with the stated objectives and policies of this Plan and the objectives and policies of the East of England Plan and the Milton Keynes & South Midlands Sub-Regional Strategy. However, the referred to East of England plan and sub-regional strategy have been revoked and this limits the weight that can be attached to this policy, although the policy's high level support for sustainable levels, locations and forms of development remains in broad accord with the Framework's purpose.
16. CS Policy CP13 says that development in the countryside will only be permitted if it would be consistent with national policy. As the policy is directly linked to compliance with national policy, it must logically accord with it and carry appropriate weight. The relevant national policy is now set out in the

Framework⁵ in two distinct paragraphs. Paragraph 78 says that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Paragraph 79 says that planning policies and decisions should avoid the development of isolated homes in the countryside unless it meets certain specified exception tests. The Court⁶ has held that the term “isolated homes” should be given the ordinary objective meaning of “far away from other places, building or people: remote” (the Braintree judgement). In essence, paragraph 78 tells planning authorities where rural housing should be located and paragraph 79 directs where housing should not be located, unless there are exceptional circumstances.

17. The ‘isolated’ issue has featured in the consideration of earlier appeal cases on sites within the former butterfly park. The first and second appeal decisions predated the Braintree judgement and both Inspectors appeared to regard the former car park location as isolated under the then paragraph 55 of the 2012 Framework. However, the third appeal, concerning a proposal to build a dwelling on a plot within the curtilage of the converted former reception building, was determined after the Braintree judgement, although before the publication of the latest version of the Framework. The Inspector found no tension with the Framework’s policy content⁷ concerning ‘isolated homes’. Following that decision, the Council sought a legal opinion which suggested that the Inspector had failed to fully understand the Court’s Braintree judgement. However, the Council did not challenge the Inspector’s decision in the courts and the decision remains a relevant material consideration in this case.
18. The issue of ‘isolated’ in this regard must always be a matter of fact and degree. In this case, it is not simply about a consideration of proximity to services and facilities, but also about whether the proposed home would be physically and functionally far away or remote from other places, buildings or people. In my judgement, the appeal proposal could not be so described, as there are occupied houses in close proximity, including Nos 65A and *High Farm* (a dwelling to the north-east of 65A), and there are other places, such as the villages of Wilden and Ravensden, that are relatively close by and not ‘far away’. Accordingly, I do not consider that the appeal proposal would result in a truly ‘isolated’ home in that sense and there is therefore no need for me to explore any of the special circumstances, set out in paragraph 79, that would justify allowing isolated new homes.
19. However, establishing that the proposed dwelling would not be ‘isolated’ does not automatically equate to it being ‘sustainable development’ under the preceding paragraph 78 of the Framework. In practice, the appeal site’s open countryside location and characteristics mean that it is likely that future occupants would be highly dependent on the use of private cars rather than the use of sustainable modes of travel for most day to day needs, including accessing centres for shopping, services, education and employment. This is because the bus service is very limited, there are no footways along the roads to encourage walking and cycling routes are not particularly attractive, especially at night and in poor weather conditions. Whilst I recognise that there is a network of off-road footpaths, these are typically across open fields and would be unlikely to be used if the ground was wet, after dark or in poor

⁵ Planning Policy Statement 7 referred to in the text of CS Policy CP13 has been replaced by the Framework.

⁶ Braintree District Council v SSLG [2017] EWHC 2743

⁷ Paragraph 55 of the 2012 version of the National Planning Policy Framework

weather. These factors mean that appropriate opportunities to promote sustainable transport modes cannot be taken.

20. Moreover, there is no convincing evidence before me to demonstrate that locating a new house on the appeal site would promote sustainable development by enhancing or maintaining the economic or social vitality of rural communities or that it would support local services. The concept of 'community' is not defined in the Framework but, in my view, it must entail a certain scale and a tangible degree of unity, common interest and coherence. Whilst I have no doubt that individuals living in the same part of the open countryside may have some interactions and be generally neighbourly, there is no convincing evidence before me that indicates that the very dispersed and small number of dwellings in the vicinity could be regarded as a 'community' in the context of the Framework's overarching purpose of supporting sustainable development in rural areas. Indeed, given the location of the site and the likely high dependency on car travel, this may actually serve to encourage trips further afield to higher order centres.
21. Similarly, there is insufficient evidence to suggest that there would be any tangible social benefits arising from locating a dwelling on the appeal site, with its few and dispersed neighbours, which would serve to limit, rather than enhance, social interactions and vitality. As a result, I consider the location of the appeal site to be in conflict with paragraph 78 of the Framework and, by extension, CS Policy CP13 which is premised on compliance with national policy.
22. The Council's reasons for refusal also states conflict with CS Policy CP14, which says that where there is a proven need for development to be located in the RPA, it should be directed to locations in or around the edge of key service centres. No evidence of proven need has been provided in this case and the proposal therefore conflicts with Policy CP14. However, this policy is more restrictive than the Framework, which does not require a proven need for housing (other than in relation to rural workers' dwellings). As there is inconsistency between Policy CP14 and national policy, I consider Policy CP14 cannot attract full weight in the context of Paragraph 213 of the Framework.
23. I conclude that whilst the appeal proposal would not be an isolated home under the terms of paragraph 79 of the Framework, it would not be a sustainable location for the development proposed and would not be consistent with paragraph 78. By extension, the proposal would conflict with Policy CP13, which limits development in the countryside to that which is consistent with national policy. I attach significant weight to these conflicts with the Framework and the development plan. I also find some conflict with the CS spatial strategy as set out in Policy CP1 and with Policy CP14, which restricts development in the RPA, but I attach limited weight to these conflicts, as the policies are out of date and not fully consistent with the Framework.

Other Matters

24. Whilst the appellant's case does not rely on housing land supply arguments, the Council has confirmed that, whilst it could demonstrate a 5.8 year housing land supply earlier this year, the application of the Standard Method in line with the revised Framework (February 2019) has increased the requirement. This means that its land supply is currently reduced to about 3.7 years and it says the shortfall will be addressed through its draft Local Plan 2030, which is

currently undergoing its examination. Whilst this means that the so called 'tilted balance' is engaged through paragraph 11d) of the Framework, the adverse impacts identified above would be significant and demonstrable, as the proposal would not be sustainable development.

25. I have also taken into account the appellant's stated objective to secure funds from the appeal proposal to fund the completion of the conversion works at the former reception building complex. However, this does not provide a valid planning basis for allowing the proposal.
26. I have had regard to the representations in support of the appeal proposal, but these have not led me to a different conclusion on the main issue.

Conclusion

27. For the reasons given above, and taking all matters into account, the appeal is dismissed.

P. Staddon

INSPECTOR