
Appeal Decision

Site visit made on 27 August 2019

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 August 2019

Appeal Ref: APP/P0240/W/19/3230716

Land north of Tythe Barn, Wood End, Tingrith, Bedfordshire MK17 9ER

- 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 Ms Radford against the decision of Central Bedfordshire Council.
 - The application Ref CB/19/01240/OUT, dated 10 April 2019, was refused by notice dated 7 June 2019.
 - The development proposed is the construction of a new dwelling following the demolition of existing stables and storage sheds.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Ms Radford against Central Bedfordshire Council. This application is the subject of a separate Decision.

Procedural Matter

3. The appeal proposal has been made in outline with all matters reserved for future consideration. As such, the submitted proposed block plan and elevations that show details of reserved matters are considered solely on the basis that they have been submitted for indicative purposes.

Main Issues

4. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt, including its effect upon openness, having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - Whether the site is suitably located for new housing development, having regard to local and national policies, and;
 - The effect of the proposal on highway safety, with particular regard to the access, and;
 - If inappropriate, would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so,

would this amount to the very special circumstances required to justify the proposal.

Reasons

Whether Inappropriate Development

5. The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
6. Development within the Green Belt is inappropriate with the exceptions of the types of development listed in Paragraphs 145 and 146 of the Framework. It is the appellant's view that the proposal is not inappropriate by virtue of the exceptions contained in sub paragraph g) of paragraph 145 which allows for the limited infilling or the partial or complete redevelopment of previously developed land. However, the caveat to paragraph 145 g) is that the development should not have a greater impact on the openness of the Green Belt than the existing development.
7. At present the site is used for the keeping of horses and there is no dispute between the parties¹ that it constitutes previously developed land as defined in the Framework. I am referred to several appeal decisions² that support the conclusion that equestrian uses generally constitute previously developed land, and I have no basis to disagree in this case. However, the parties disagree as to whether the proposed development would have a greater impact on the openness of the Green Belt than the existing development. Planning Practice Guidance confirms that openness is capable of having both spatial and visual aspects.
8. The main building on the site is a modest L shaped stable with a ridge height of 3m³, with the longest section located adjacent to the north western boundary hedgerow with open hardstanding in front. In addition, there are 3 single storey shed buildings, also positioned close to the north western boundary. Notwithstanding the boundary post and rail fencing, the adjacent manege is otherwise open, with built form notably absent.
9. The appellant asserts that the proposed dwelling⁴ would reduce the footprint and height of built form, and therefore would have a smaller volume than the present buildings and in doing so, relies upon the dimensions in the indicative proposed plans. However, the grant of outline permission would not tie the future development to such plans and even accounting for the use of planning conditions to limit certain dimensions, there may be alternative ways of developing the site. Accordingly, this limits the weight that I can attach to the comparative figures given, which in any event, do not show a significant difference in the overall volume.
10. In addition, the indicative block plan shows one building located horizontally across the site, further away from the boundary hedgerow, which would encroach more obviously into the open manege area. Although, this layout is

¹ Planning Officer Delegated Report page 8

² Referenced APP/B3438/W/15/3140510, APP/Y0435/W/17/3178790 and APP/D2320/W/17/3187337

³ Existing elevations Drawing FR/EE/1 Revision A

⁴ Table in paragraph 3.9 Design and Access Statement

also indicative, due to the openings and windows associated with a residential use, the built form would be likely to be located further from the boundary hedgerow than the existing stable building and sheds.

11. I accept that the existing built form comprises a series of structures, nevertheless, as they take a generally linear form close to the boundary, the impact on openness is lessened. Moreover, the indicative plans and volume figures given for the proposed dwelling assume that it would have no associated shed or outbuildings, which would be unusual. On this basis, the location of the proposed dwelling would be likely to have increased visual prominence and therefore, a greater impact on the openness of the Green Belt, than the existing development.
12. I observed that at present, there was limited external lighting above the apron of the main stable building. It is likely that, due to the more prominent siting and windows, there would be an increase in the level of visible lighting associated with the proposed dwelling, which as a consequence, would be more conspicuous within the landscape. Furthermore, the necessary area of hardstanding that would be required to provide a turning area is not clearly established⁵, and therefore, although this could be defined at a later stage, I give limited weight to the appellants assertion that there would be a modest reduction.
13. Whilst the domestic paraphernalia and activity associated with a residential dwelling would impact on the openness of the Green Belt, I accept that the evidence provided does not indicate that these would be considerably different to the equine paraphernalia and activity that is associated with the existing development, and therefore, the impact in this regard is likely to be neutral.
14. Nevertheless, taking the above factors together, the proposal would be likely to have a greater, albeit limited, impact upon the openness of the Green Belt. Consequently, the proposal would not fall within the exceptions listed in the Framework and would constitute inappropriate development in the Green Belt, to which I must attach substantial weight.

Location of housing

15. The site lies outside of a village with a defined settlement envelope identified in the Central Bedfordshire Core Strategy and Development Management Policies, November 2009 (CS). There is no dispute between the parties that the appeal site is in a rural area⁶. Policy CS1 of the CS sets out a development strategy for the district which seeks to direct residential development to towns and villages proportionate to their position within the hierarchy of settlements. Policy DM4 of the CS seeks to use settlement envelopes for identified settlements to reflect the degree of accessibility to employment, services and a wider range of transport options and to restrict development outside of such areas to limited exceptions. The appeal site does not fall within such a settlement envelope in the CS, neither does the evidence suggest that the proposal would fall within the identified exceptions. As such the proposal would be contrary to policies CS1 and DM4 of the CS.

⁵ Bedfordshire Fire and Rescue Services comments dated 5 June 2019 refer to turning facilities that should be provided in any dead end access route that is more than 20 m long; Comments of Highway Officer 7 June 2019 refer to need to increase size of turning facilities.

⁶ Paragraph 21, Appellant statement

16. There is reference to emerging policy SP7 of the Central Bedfordshire Pre-submission Local Plan 2015-2035, January 2018 on the decision notice. Insofar as is relevant to the circumstances of the appeal proposal, this emerging policy would not significantly change the approach from policies in the adopted development plan, and therefore, does not have a significant bearing on my findings. In any event, given the relatively early stage of preparation of the plan, the policy attracts only limited weight.
17. The development plan policies pre-date the Framework policy, which indicates that rural housing should be located where it will enhance or maintain the vitality of rural communities⁷. Moreover, planning policies should identify opportunities for villages to grow and thrive. Whilst the Framework does not specifically mention the use of settlement envelopes, it does not preclude their use. As such, the adopted policies broadly align with the Framework policies in identifying which rural settlements in the district are best situated to take growth.
18. In addition, paragraph 79 of the Framework states that planning policies and decisions should avoid the development of isolated homes in the countryside, subject to specific exceptions. It is not part of the appellant's case that any of the listed exceptions apply but the parties disagree as to whether the appeal site is isolated. My attention has been drawn to the caselaw⁸ that considered the interpretation of the term "isolated" in the then paragraph 55 of the Framework. As paragraph 79 of the revised Framework is very similar in other regards to the previous paragraph 55, it follows that the case law on this point remains relevant to its interpretation. This established the term "isolated" should be given its ordinary meaning in the sense of being detached or standing alone, and that this is a matter of fact and planning judgement for the decision maker on the particular circumstances of the case.
19. The proposal would result in a detached dwelling some distance from other buildings and the road. The intervening rural landscape means that the appeal site does not appear as, nor feel part of a settlement or cluster of buildings, and it is sufficiently physically separate to feel remote. Although the area surrounding the appeal site is not entirely devoid of buildings, the limited number of buildings that do exist are dispersed such that it is the natural landscape that takes precedence. Therefore, I find that the proposal would result in an isolated dwelling.
20. Moreover, there is no dispute that the appeal site would have relatively poor pedestrian access to local services and facilities⁹ and limited public transport options. Therefore, future occupants, who are likely to have a range of travel requirements, would need to rely on the private car as the primary means of travel.
21. I therefore conclude that the proposal would be inconsistent with CS policies CS1 and DM4 relating to the location of new housing development and the Framework policy in relation to the provision of rural housing.

⁷ Paragraph 78

⁸ *Braintree District Council v Secretary of State for Communities and Local Government & Others* [2017] EWHC 2743 (Admin) and *Braintree District Council v Secretary of State for Communities and Local Government & Others* [2018] EWCA Civ 610

⁹ Paragraph 25 Appellant statement

Highway Safety

22. Although access is a reserved matter, given the configuration of the site, there would be few alternatives for the proposed dwelling but to use the existing access serving the stables. At present this appears as a gated field access at the end of a lengthy drive served by a road where the national speed limit applies. The alignment of the road is such that it would not be possible to provide visibility splays in accordance with those recommended by the Highway Authority. However, this is equally true of the existing access which the evidence suggests has been in use during the period relating to the accident data provided by the Council.
23. Limited information is provided in relation to the nature and amount of traffic currently using the site in comparison to the proposed single dwelling. Nevertheless, the appellant refers to daily car visits to the private stables. In addition, movements involving large and/or longer vehicles would not be infrequent given deliveries for food and hay, and movements involving horse boxes. Less frequent movement might be associated with vets and farriers.
24. The impact of this level of traffic is broadly comparable to that likely to be generated by a single dwelling¹⁰. Therefore, based on the limited evidence presented, there is little to support the assertion that the proposal would result in an intensification of the use of the existing access. Furthermore, given the nature of vehicles normally associated with residential occupiers, there is likely to be a reduction in movements of larger and towing vehicles.
25. Consequently, based on the information presented, it is not shown that the proposal would have an unacceptable impact upon highway safety, and therefore, I do not find conflict with the national policy outlined in paragraph 109 of the Framework which states that development should only be refused or prevented on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Other Considerations

26. As previously stated, the appeal site comprises previously developed land as defined in the Framework. Paragraph 117 requires strategic policies to make as much use as possible of previously developed land. However, the footnote to the policy indicates that this is not the case where it would conflict with other policies in the Framework. As I have found that the proposal would constitute inappropriate development in the Green Belt, it would conflict with the national policy in this regard. Accordingly, in these circumstances, the re-use of brownfield land would attract limited weight.
27. The proposal would contribute an additional house to the overall housing supply, and there would be some economic benefits as a result of construction and spending associated with future occupants, which weigh in favour of the proposal. Nevertheless, the modest scale of such benefits accruing from a single house means that this attracts limited weight.

¹⁰ Section 6.5 LPA Statement: Council suggest 6-8 trips per day including residential and service/delivery vehicle trips.

28. I am referred to a recent decision¹¹ that concerned the demolition of former stable buildings and the erection of a bungalow that the Council concluded fell within the definition of paragraph 145 g) of the Framework. In contrast to the proposal before me, the application, that sought full permission, represented a 46% reduction in the floor space of built form¹². Notwithstanding that there is little explanation of how the proposal related to paragraph 79 of the Framework or development strategy in the development plan, due to the significant reduction in built form it is notably different from the proposal before me and therefore, is of limited weight. In any event, I have determined the appeal proposal on its own merits.

Green Belt balancing exercise and conclusion

29. Paragraph 144 of the Framework advises that substantial weight should be given to any harm to the Green Belt. Moreover, very special circumstances to allow inappropriate development will not exist unless the harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. In this case, the proposal amounts to inappropriate development, and limited harm would be caused to the openness of the Green Belt. These factors attract substantial weight.
30. In addition, the isolated location of the dwelling with relatively poor accessibility would conflict with the overall strategy for residential development in the development plan and Framework policy for rural housing. Paragraph 213 of the Framework indicates that due weight should be given to policies which pre-date the Framework according to their degree of consistency with it. Accordingly, policies CS1 and DM4 of the CS attract significant weight.
31. Whilst I have not found harm in relation to the impact on highway safety, the absence of such harm does not weigh in favour of the proposal, and therefore, this is a neutral factor in the overall balance. The other considerations in this case that are afforded limited weight do not clearly outweigh the harm identified. Consequently, the very special circumstances necessary to justify the development do not exist.
32. The appellant refers to the 'tilted balance' in paragraph 11d) being applicable to the proposal. This would be the case if there were no relevant development plan policies, or the policies which were most important for determining the application were considered out-of-date. For the reasons already outlined, I have found that the development plan policies relevant to this proposal are broadly consistent with the Framework. Moreover, the Council in their five year land supply statement for the five year period commencing 1 April 2019 show a 6.03 years supply of deliverable housing sites, the calculation of which was considered at a recent appeal¹³ as a reasonable basis to show in excess of a five year supply. As such, it carries considerable weight. Therefore, based on the evidence before me, it is not shown that the criteria necessary for paragraph 11d) to apply are met.
33. However, even had I considered that the development plan policies relied upon were out of date, given that I consider the proposal is inappropriate

¹¹ Reference CB/19/00842/FULL dated 11 June 2019

¹² Page 4 Planning Officer Delegated Report

¹³ Reference APP/P0240/W/18/3218992

development in the Green Belt which provides a clear reason for refusing the development, footnote 6 makes it clear that the tilted balance would not apply in any event.

34. Therefore, as the proposal would be contrary to the Framework which seeks to protect the Green Belt from inappropriate development, I conclude that the appeal should be dismissed.

Helen O'Connor

Inspector