
Appeal Decision

Site visit made on 22 July 2019

by Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 10th September 2019

Appeal Ref: APP/P0240/W/19/3227594

Fairview, Flitton Hill, Flitton, Bedford, MK45 5EA

- 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 West against the decision of Central Bedfordshire Council.
 - The application Ref CB/19/00079/FUL, dated 7 January 2019, was refused by notice dated 15 April 2019.
 - The development proposed is conversion of existing garage to form new dwelling with shared access to highway.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Central Bedfordshire Local Plan has reached submission stage and was submitted to the Secretary of State on 30 April 2018 and is currently undergoing examination. However I have been given few details of its relevant policies, I do not know their degree of consistency with the policies in the National Planning Policy Framework (the Framework), nor I do not know what outstanding objections there may be. Therefore I can give it only limited weight and it is the policies of the extant development plan against which I will judge the appeal proposal.

Main Issues

3. The main issues in this case are: i) the location of the appeal site for residential development; and ii) the quality of the external amenity space and garden.

Reasons

4. The starting point for the consideration of the issues in this appeal is the development plan. The extant development plan is the Core Strategy and Development Management Policies adopted in November 2009. Two policies are cited as being applicable to the judgements to be made in this appeal: Policy DM3 and Policy DM4. In addition the Council states that the appeal proposal would be contrary to Sections 2 and 12 of the Framework. A further material consideration is the Central Bedfordshire Design Guide (2014) that sets out overall design principles for all forms of development based on place-making, local distinctiveness, the achievement of sustainable development, and approaches to the appraisal of sites and their settings.

The location of the appeal site for residential development

5. Policy DM 4 'Development Within & Beyond Settlement Envelopes' states, among other things, that: *"Within the Settlement Envelopes of both Major and Minor Service Centres, the Council will approve housing, employment and other settlement related development commensurate with the scale of the settlement, taking account of its role as a local service centre. Within Settlement Envelopes in Large Villages, small-scale housing and employment uses, together with new retail and service facilities to serve the village and its catchment will be permitted. Within Settlement Envelopes in Small Villages, development will be limited to infill residential development and small-scale employment uses"*.
6. It can be seen that this policy has its basis in documents that are no longer current and, in any event, this is a blanket approach that is not entirely consistent with the Framework, which favours a more balanced approach to decision-making. The Framework does contain an exceptional circumstances test, set out at paragraph 79, however it is only engaged where development is isolated. Isolated has been determined by the High Court¹ as having its ordinary meaning of 'far away from other places, buildings or people; remote'. The appeal site has adjacent development and therefore cannot be regarded as isolated and paragraph 79 is not applicable in terms of the merits of the appeal proposal.
7. Framework paragraph 11 sets out 'The presumption in favour of sustainable development'. Since Policy DM4 is not fully in accord with the approach in the Framework, I need to consider whether it should be regarded as out of date, since it must be considered as one *"most important for determining the application"*. Framework paragraph 78 provides support for development in rural areas: *"To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby."*
8. The preamble within Policy DM4 includes the proviso that "Where no land is available within the settlement, a site adjacent to the settlement may be granted planning permission. Such development should make the best use of available land and lead to more sustainable communities". In other words, it makes provision for exceptions on the basis of sustainability, and it is focused on 'settlements'. I therefore consider that it is generally consistent with the latest version of the Framework.
9. Flitton has a limited number of services and facilities, in the form of a public house and village hall, but there are bus stops for services that provide access to Silso, Flitwick, Ampthill, Bedford and Milton Keynes, although I have not been given details of the frequency of these services. It is Flitwick and Ampthill that would most likely be relied upon for access to shops, schools and doctors' surgeries. I have not been given the distances to the bus stops for these

¹ Braintree District Council vs. the Secretary of State for Communities and Local Government & Others ([2018] EWCA Civ 610)

services from the appeal site, but I assess the nearest bus stop as being approximately 600m from the appeal site.

10. The site is not connected to Flitton by means of a footpath, and therefore I cannot see that the bus services would be likely to be used by the occupiers of the appeal dwelling in preference to a private motor vehicle to anything but a very limited extent. I therefore consider that the future occupiers of the proposed dwelling would be reliant on private motor vehicles for virtually all their everyday needs. In terms of the policy in Framework paragraph 78, the site is not within a 'settlement' and a single dwelling will do little to enhance or maintain the vitality of Flitton and would not be a material benefit to, for instance, Flitwick or Ampthill. I conclude that the site is not situated in a sustainable location, and therefore is not suitable as a location for additional residential development.
11. It follows from this that, due to the limited services available in Flitton, and the fact that the appeal site is well removed from the village and its bus services, especially in terms of walking or cycling, the proposed conversion would result in a new dwellinghouse in an unsustainable location. Therefore the development would be contrary to Policy DM4 of the Core Strategy and Development Management Policies (2009), and would also be contrary to the core principle of sustainability outlined within paragraph 10 of the Framework.

The quality of the external amenity space and garden

12. This issue arises from the first reason quoted on the Council's decision to refuse planning permission for the appeal development. It states that the proposed conversion of the existing garage would provide the future occupiers of the building with a poor and a substandard amount of external amenity space and garden, and therefore would provide poor living conditions for the future residents, contrary to Policy DM3 of the Core Strategy and Development Management Policies.
13. Policy DM3 'High Quality Development' has a number of factors to be considered; including (as relevant in this case) that all proposals for new development will:
"☐ *be appropriate in scale and design to their setting.*
☐ *contribute positively to creating a sense of place and respect local distinctiveness through design and use of materials.*
☐ *use land efficiently.*
☐ *provide adequate areas for parking and servicing.*
☐ *provide hard and soft landscaping appropriate in scale and design to the development and its setting*".
14. Of these, it seems to me that, save for "provide hard and soft landscaping appropriate in scale and design to the development and its setting", all the other requirements are either not appropriate to the scale of this proposal or are met. For further guidance in respect of the relevant requirement for amenity space and garden it is necessary to look to the Central Bedfordshire Design Guide, September 2014. In this document, the introduction states that the Council places great emphasis on the need for new development to be of the highest possible quality, ensuring that the places created now provide a lasting legacy and are locally distinctive. This is in line with the government's requirement as set out in section 12 of the recently revised Framework, 'Achieving well-designed places'.

15. The appeal documents include an extract from 'Design in Central Bedfordshire', which, at 5.06.04 sets out minimum depths and areas for private gardens in respect of 2 bedroom and 3+ bedroom dwellings. Since the appeal proposal is for a 2 bedroom dwelling, the requirement is set out as 50m² (based on 5m width), with a minimum depth of 10m. The text explains that *"these dimensions provide a modestly sized garden, but in most cases can accommodate a sitting out area, clothes drying area, small shed, and area of play as well as space to plant small shrubs and trees. To accommodate these items, they should not be awkwardly shaped or very narrow. For example, where a garden tapers to a narrow point and the plot size is not yet fixed, it will be necessary to compensate for the loss of area by extending the length of the garden. Similarly, minimum areas should include side gardens to account for awkwardly shaped plots where the gardens cannot be lengthened"*. Paragraph 5.06.05 adds that gardens should be designed to ensure that they receive afternoon sun.
16. This document is guidance and should not be used over-prescriptively. Nevertheless it sets out a sensible approach to the provision of private garden space. For the appellant it is said that the minimum area of the proposed garden is well over 50m² and is in fact around 140m², taking into consideration the side garden. This presents me with a difficulty because the application plans are shown to be to scales of 1:100 and 1:50, but it is not specified at what paper size this is. In addition there are insets of the location plan and site layout that are shown to be at scales of 1:500 and 1:1250. Nor is there a linear scale shown on the plans.
17. I am unable to verify that the area 'of around 140m² is correct. Furthermore, whilst the appeal site is shown, with no detail, on the red-line plan at 1:1250 scale, the layout plan shows no clear curtilage boundary. The main area of the garden is to the south of the proposed dwelling, but this is awkwardly shaped, coming to a point. It is bounded with a tall fence on the southern boundary, necessary for privacy, and is over-shadowed to a large extent by trees so that it would have limited amenity value. In addition there is a side garden to the west, extending to the position of 2 car parking spaces, but the extent of private amenity space that this would provide is unclear.
18. My conclusion is that I cannot be satisfied that the proposal would provide satisfactory private garden spaces that would serve to provide quality external amenity space and garden, and for this reason the appeal proposal is not shown to meet the intentions of Policy DM3 and the design guidance.

Other matters

19. The Council, claims that it has a five year supply of housing land based the housing need for Central Bedfordshire of 32,000 new homes over the period 2015 to 2035 (source: Central Bedfordshire and Luton Strategic Housing Market Assessment January 2018). The Council's latest assessment shows a 6.03 years supply. This is contested on behalf of the appellant, primarily on the basis that a number of the sites relied upon do not meet the criteria set out in Annex 2 of the Framework. However, the Council has also put forward example appeal decisions, resulting from an inquiry and hearings, where the Inspectors have recently concluded that it has been demonstrated that there is a supply of more than 5 years. A written representation appeal is not a suitable forum for determining this question, and I come to no conclusion on the matter.

Conclusion

20. I conclude that the appeal proposal is in an unsustainable location and therefore the principle of development would be unacceptable, contrary to Policy DM4 of the Core Strategy and Development Management Policies (2009), and to the core principles of the Framework set out in paragraph 10. Furthermore, I am not satisfied from the information before me that the proposal would amount to good design, in respect of the private amenity area, and therefore it is not in conformity with Policy DM3 and the Council's design guidance or Section 12 of the Framework.

Terrence Kemmann-Lane

INSPECTOR