
Appeal Decision

Site visit made on 9 September 2019

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 October 2019

Appeal Ref: APP/P0240/W/19/3223970

Land at Clophill Road, Maulden MK45 2AA

- 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 Aldbury Homes against the decision of Central Bedfordshire Council.
 - The application Ref CB/18/04183/OUT, dated 9 November 2018, was refused by notice dated 13 February 2019.
 - The development proposed is up to 14 dwellings including access.
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Decision

1. The appeal is allowed and planning permission is granted for the development of up to 14 dwellings including access at Land at Clophill Road, Maulden MK45 2AA, in accordance with the terms of the application, Ref: CB/18/04183/OUT, dated 9 November 2018, subject to the conditions set out at the end of this decision.

Procedural Matters

2. The appeal proposal is for outline planning permission with access only to be determined at this stage and with appearance, landscaping, layout and scale reserved for future approval. Whilst not formally part of the scheme, I have treated the details relating to the matters reserved for future approval submitted with the appeal application as a guide to how the site might be developed.
3. A signed Unilateral Undertaking dated 12 September (the first UU) has been submitted, which secures on-site affordable housing provision. A further signed Unilateral Undertaking dated 7 October (the second UU) has also been submitted. This secures contributions towards the provision a village hall, playing field provision, a waste contribution and education contributions. The Council has been given the opportunity to make comments with respect to each UU. I shall return to the UUs later.
4. The Pre-Submission version of the emerging Central Bedfordshire Local Plan 2015-2035 (the CBLP) was submitted to the Secretary of State in April 2018. The Council has indicated, and I have no reason to disagree, that the CBLP is at a stage that attracts limited weight.

Main Issues

5. The main issue is whether the appeal site represents an appropriate location for housing, with particular regard to the effect of the proposal upon the character and appearance of the area.

Reasons

6. Policy DM4 of the Central Bedfordshire Core Strategy and Development Management Policies November 2009 (the CBCSDMP), through the identification of Settlement Envelopes, differentiates the built-up areas of settlements from areas of open countryside situated beyond. Maulden has two separate Settlement Envelopes and the site, which is formed of land designated as open countryside, sits in-between these separate envelopes. The main village is located to the west whilst the Clophill Road element of Maulden (Green End) sits to the east.
7. The National Planning Policy Framework (February 2019) (the Framework) does not imply that protection from development be given to the open countryside in its totality, rather that valued landscapes be protected and enhanced and that recognition be given to the intrinsic character and beauty of the countryside. Policy DM4 seeks to protect the open countryside from inappropriate development and is a restrictive policy, yet it is also evident that it does not explicitly prevent all types of development outside of defined envelopes where no land is available within a settlement and proposed development would make best use of available land and lead to more sustainable communities. The policy's supporting text confirms that Settlement Envelopes are not an attempt to define the extent of a particular town or village community.
8. In this case Maulden's defined Settlement Envelope is typically tightly drawn around the existing built up area. Thus, the proposal could be observed to make best use of available land and could lead to a more sustainable community through supporting local facilities post-occupation. In any event, the fact that the site is located outside of any defined Settlement Envelope is not, I consider, a determinative factor in this case.
9. The site is located in the 'Mid Greensand Ridge' landscape character area (the LCA), which is characterised in-part by undulating landforms and a strong woodland presence contrasted against a variable array of arable/agricultural land. A range of enclosed and open views are available within the LCA and a strong rural character is in place notwithstanding the existence of various small to medium sized settlements. The appeal site, although limited in its size and contribution, is reflective of these overarching attributes, being comprised of a parcel of sloping agricultural land that provides opportunities for open views across it.
10. As noted in an earlier appeal decision¹ at the site, existing built form along Clophill Road is largely ribbon development such that the development of the appeal site would have a similar character to existing built form in the locality. Indeed, the appeal site's depth and extent are respectful of the position and layout of neighbouring development such that the scheme's encroachment into surrounding open countryside would appear limited.

¹ APP/P0240/W/18/3194555

11. Nevertheless, the supporting text to Policy DM4 refers to Settlement Envelopes serving to prevent coalescence between settlements and to protect the separate character and physical identity of village ends (such as Green End). Whilst the site effectively bridges the gap between the main village and Green End, I note the relatively limited number of dwellings proposed against the comparatively generous site area under consideration. A low-density development would thus arise, and the indicative site layout illustrates that a scheme could be brought forward whilst retaining a substantial central area of undeveloped space and an open vista through the site when passing the newly proposed Clophill Road entrance.
12. Whilst emerging Policy CG8 of the CBLP designates the land situated between the main village and Green End as an important countryside gap, I afford this designation only limited weight considering the CBLP's emerging stage. As set out in the Framework, arguments that a proposal is premature are unlikely to justify a refusal of planning permission. Indeed, I am satisfied that the scheme before me is not so substantial that granting planning permission could undermine the plan-making process. This is particularly when noting the intended low-density nature of the proposal.
13. The proposed development would have a close presence when experienced from Clophill Road, yet views beyond the site (to the north) from Clophill Road vantage points are restricted by virtue of the rising nature of the land and the presence of an established hedgerow. A public footpath runs along higher ground situated to the north of the site and provides largely unrestricted views of the site. Indeed, from this footpath, it was possible to view the site against the backdrop of undeveloped countryside situated on the opposite southern side of Clophill Road. However, these views were influenced by the presence of various built developments, which became more manifest as I moved eastwards along the public footpath. Therefore, whilst the proposal would introduce built development, it would not unduly impair expansive or interrupted views of the open countryside.
14. The creation of a new vehicular access to the site would necessitate the part removal of the established hedgerow that fronts Clophill Road. However, the gap that would be needed to be created would be narrow in the context of the hedgerow's length when considered as a whole. I am satisfied that the extent of hedgerow removal necessitated would not lead to detrimental effects in character and appearance terms.
15. Whilst Landscape and Visual Impact Assessment (LVIA) has not been undertaken to support the scheme that is before me, the proposal is for development at a non-strategic scale and, as accepted by the Council's Landscape Officer, the site does not fully meet the criteria to be considered valuable in the context of the terms set out in the Framework. I am satisfied that the scheme's impact in landscape character and visual impact terms can be assessed in an adequately robust fashion without being informed by LVIA.
16. I am aware of a recent appeal decision² related to a site situated on the opposite side of Clophill Rd to the appeal site. The residential proposal was dismissed in July 2019 based on significant harm being identified to the character and appearance of the landscape. The site in question is located within the same gap between the main village and Green End that is occupied

² APP/P0240/W/18/3218992

by the site under consideration here. However, the past proposal was for 42-units and was thus substantially larger and represented development at depth to the southern side of Clophill Road. The impact upon landscape character would not be directly comparable to that of the proposal before me. Indeed, the previous Inspector, when comparing the 42-unit scheme to the previously dismissed scheme at the appeal site³, took the same view. The July 2019 appeal decision is thus of limited relevance to the determination of this appeal.

17. Furthermore, historic schemes related to land situated at Clophill Road and that were ultimately dismissed at appeal⁴ hold limited relevance. This is not least due to the length of time that has now passed since each of these decisions. Indeed, the development plan would have evolved significantly since those decisions were made.
18. For the avoidance of doubt, I am satisfied that the proposal, considering its distanced location and relatively modest scale, would not have an adverse effect upon the wider setting of Maulden Church.
19. In the context of the site-specific circumstances outlined above, the proposal would not cause significant harm to the character and appearance of the area. The proposal broadly accords with Policies DM3, DM4, DM14, CS14 and CS16 of the CBCSDMP in so far as these policies require that in the rural part of the district new development will be limited in overall scale and that the Council will resist development where it will have an adverse effect on important landscape features or highly sensitive landscapes. The proposal therefore accords with the development plan, when read as a whole.

Other Matters

20. My above considerations are made on the basis that the policies most important for determining the proposal are up-to-date. The main parties to this appeal dispute whether or not the Council can currently demonstrate a five year supply of housing land. However, as I have found that the proposal accords with an up-to-date development plan when read as a whole, it is not necessary for me to consider the matter of housing land supply any further as part of this decision.
21. The first UU secures the total provision of 5 affordable housing units, comprised of 4 affordable rented units and one shared ownership unit. I am satisfied that this represents a compliant level of provision in accordance with Policy CS7 of the CBCSDMP. I too am satisfied, from the evidence before me, that the first UU is fit for purpose.
22. The second UU secures a village hall contribution of £23,381.50. The Council has explained that an audit of village and community halls was carried out in 2017 and that an expected contribution has been calculated based on floor space per new resident as well as average build cost. Various education contributions at early years (£14,517.72), lower (£48,392.40), middle (£48,694.52) and upper school (£59,712) level have been calculated in line with the number of dwellings and pupil yields expected. Specific establishments in need of additional capacity have been highlighted by the Council and are reflected in the second UU's drafting.

³ APP/P0240/W/18/3194555

⁴ T/APP/J0215/A/99/1026775 and T/APP/J0215/A/89/115096/P4

23. Furthermore, a playing field contribution of £14,984 towards the provision of additional changing facilities at a nearby recreation ground is secured through the second UU. The Council has explained that the figure has been calculated based on a Sport England formula for pitch provision and is consistent with how other similar contributions have been calculated locally. In addition, a waste contribution of £770 is secured based on £55 per unit to provide waste and recycling receptacles for future occupiers of the development in accordance with the Council's Waste Services standard.
24. I am satisfied that the various contributions secured through the second UU are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind. I am also content, from the evidence before me, that the second UU is fit for purpose.

Conditions

25. The Council has suggested a number of conditions that the appellant has had the opportunity to comment upon and which I have considered against advice in the Framework and Planning Practice Guidance. As a result, I have amended some of them for consistency and clarity purposes and omitted others. Pre-commencement conditions have only been applied where agreed to by the appellant in writing and where necessary to guide initial works on site.
26. In the interests of certainty, a condition specifying the approved plans is required. In the interests of highway safety and protecting the living conditions of nearby existing residents, a condition securing the submission of a Construction Management Plan is both reasonable and necessary. As I am unaware of any past use of the site likely to give rise to potential risks associated with ground contamination, a precautionary watching brief condition is unnecessary.
27. As landscaping is a reserved matter, it is unnecessary to impose a condition to secure full details of hard and soft landscaping at this outline stage. Similarly, details of intended bin storage arrangements would be expected to come forward as part of a detailed layout and are unnecessary to be secured at this stage. In the interests of protecting and enhancing biodiversity, a condition to secure the submission and subsequent implementation of an Ecological Enhancement Strategy is both reasonable and necessary.
28. To prevent an increased risk of surface water flooding, it is reasonable and necessary to impose conditions that secure full details of the intended surface water drainage infrastructure at the site and of subsequent management and maintenance arrangements and responsibilities.
29. In the interests of highway safety, and noting the relatively limited extent of detail provided at outline stage with respect to site access, it is both reasonable and necessary to impose a condition that secures, at detailed reserved matters stage, the submission of full details (including sections) of the accessway and other newly proposed on-site routes. For the same reason, conditions securing the provision of visibility splays at the highway junction, and the closing off of any existing access point located elsewhere along the Clophill Road site frontage, are appropriate.

30. In the interests of highway safety and to encourage safe pedestrian movements, a condition securing the full details and subsequent implementation of off-site highway works (in this case the upgrading of an existing footpath that runs the site's frontage) is both reasonable and necessary. Such works would be undertaken off-site and therefore outside of the full control of the appellant. However, in the absence of any evidence to the contrary, I am satisfied that the land in question falls under the full control of the Highway Authority who are supportive of the intended works being undertaken as part of the intended development scheme. I am thus sufficiently satisfied that a condition to this effect would be both implementable and enforceable.
31. It is not necessary to impose a planning condition requiring that a scheme for the provision of off-street parking and cycle parking be submitted at reserved matters stage. The site is clearly able to accommodate facilities in this respect and the detailed layout to ultimately come forward would be expected to reference parking and cycling provision in any event, which could be assessed against relevant and specific policy requirements at that point in time. It is also not necessary to impose a condition specifying the maximum number of dwellinghouses approved as this is clearly specified in the approved description of development.

Conclusion

32. For the above reasons, the appeal is allowed subject to conditions.

Andrew Smith

INSPECTOR

Schedule of Conditions

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out as approved.
- 2) Application for the approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall not be carried out except in complete accordance with the details shown on the following approved plans, in so far as these plans relate to matters not reserved for future determination: 16216(D)001; 16216(D)002 Rev D.
- 5) The development shall not commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning

Authority. The statement shall include: i) waste management measures; ii) details of site compounds, offices and areas to be used for the storage and loading of plant and materials and for the parking of vehicles; iii) methods and details of dust suppression during construction; iv) proposals to minimise harm and disruption to the adjacent local area from ground works, construction noise and site traffic; v) construction traffic routes; vi) hours of operation; vii) details of the responsible officer who can be contacted in the event of a complaint. The development shall be carried out in accordance with the approved details.

- 6) No development shall commence until a detailed surface water drainage scheme for the site, based on the agreed Flood Risk Assessment and Drainage Strategy (March 2017) and including assessment of the hydrological and hydrogeological context of the development and the expected outfall extent, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include provision of attenuation for the 1 in 100 year event (+40% allowance for climate change) and details of how the scheme will be constructed, including details of its phasing, and how it will be managed and maintained after completion. The scheme shall be implemented in accordance with the approved details and any subsequent revisions to the agreed scheme shall be fully justified and approved in writing by the Local Planning Authority before the development is first occupied.
- 7) Prior to the first occupation of the dwellinghouses hereby approved, a finalised 'Maintenance and Management Plan' for the entire surface water drainage system, inclusive of any adoption arrangements and/or private ownership or responsibilities, shall be submitted to and approved in writing by the Local Planning Authority. The surface water drainage system shall be managed and maintained in accordance with this approved plan.
- 8) No development shall take place until an Ecological Enhancement Strategy (EES) has been submitted to and approved in writing by the Local Planning Authority. The EES shall include the following: i) the purpose and conservation objectives for the proposed works informed by a review of the Ecological Survey already carried out (February 2017); ii) a review of site potential and constraints; iii) detailed design(s) and/or working method(s) to achieve stated objectives; iv) the extent and location/area of proposed works on scaled plans; v) the type and source of materials to be used where appropriate; vi) a timetable for implementation demonstrating that works are aligned with the phasing of development; vii) details of the persons responsible for implementing the works; viii) details of initial aftercare and long-term maintenance. The EES shall be implemented and features shall be maintained in accordance with the approved details.
- 9) The detailed layout plans to be submitted for approval of reserved matters in connection with this development shall include detailed plans and/or sections of the proposed access road, footways, cycleways, turning areas and street lighting.
- 10) No dwelling shall be occupied until a 2m wide footway has been constructed on the northern side of Clophill Road across the whole length

of the site frontage in accordance with the details of a scheme to be first submitted to and approved by the Local Planning Authority, which shall include new street lighting. If necessary, any Statutory Undertaker's equipment shall be re-sited (with their agreement) to provide an unobstructed footway.

- 11) No dwelling shall be occupied until visibility splays have been provided on each side of the junction of the access road with the public highway. The minimum dimensions to provide the required splay lines shall be 2.4m measured along the centre line of the proposed access road from its junction with the channel of the public highway and 59m measured from the centre line of the proposed estate road along the line of the channel of the public highway. The vision splays required shall be provided and defined on the site and kept free of any obstruction.
- 12) Before the new road access junction is first brought into use, any existing access within the Clophill Road frontage of the land to be developed, not incorporated in the access hereby approved shall be closed in a manner to first be approved in writing by the Local Planning Authority.