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## Appeal Decision

Site visit made on 3 December 2019

**by Chris Forrett BSc(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: Wednesday, 08 January 2020**

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**Appeal Ref: APP/K0235/W/19/3237824**

**Land Rear of Nos 25-39 Howard Close, Wilstead, Bedfordshire MK45 3JW**

- 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 Clarence Country Homes against the decision of Bedford Borough Council.
  - The application Ref 19/01019/MAO, dated 1 May 2019, was refused by notice dated 22 August 2019.
  - The development proposed is the erection of 30 dwellings (including affordable, self-build and build for rent) with all matters reserved except access.
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### Decision

1. The appeal is allowed and planning permission is granted for the erection of 30 dwellings (including affordable, self-build and build for rent) at Land Rear of Nos 25-39 Howard Close, Wilstead, Bedfordshire MK45 3JW in accordance with the terms of the application, 19/01019/MAO, dated 1 May 2019 and subject to the conditions in the schedule to this decision letter.

### Application for costs

2. An application for costs was made by Clarence Country Homes against Bedford Borough Council. This application is the subject of a separate Decision.

### Procedural Matters

3. The appeal proposal was submitted in outline with the means of access being considered at the outline stage. Notwithstanding that, details of how the site may be developed have been submitted which, in essence, show an extended cul-de-sac. However, with the exception of the site access, the details shown on these plans are not being considered at the outline stage. I have therefore treated these details as being a possible way of developing the site.
4. My attention has been drawn to the emerging Bedford Borough Local Plan 2030 (the emerging Plan) which is in an advanced stage of preparation. The Council consider that moderate weight should be given to the relevant policies in the emerging Plan. The Council have also indicated that the emerging Plan is predicted to be adopted in January 2020, although this is subject to change.

### Main Issues

5. The main issues are the effect of the development on highway safety and whether the development would undermine the Development Plan making process.

## Reasons

### *Highway safety*

6. The appeal development would be accessed from Howard Close by extending the length of the cul-de-sac. The Council's concerns stem from the width of Howard Close and that a number of cars currently park along the road which does not have any parking restrictions. The Council considers that the narrowing of the road as a result of parked cars would cause a highway safety issue, particularly for large vehicles such as refuse trucks. Similar concerns are also raised in the representations received from local residents.
7. From the evidence before me, Howard Close has a carriageway width of around 5.5 metres together with a 1.8 metre wide footway along the northern side of the road. To my mind, this width and design of the existing road is more than suitable to provide for a safe and suitable access to the appeal site, especially given the quantum of development proposed.
8. At my site visit I observed that some on-street parking occurred although this was not excessive and there was ample space for vehicles to safely pass and re-pass. Whilst I acknowledge that my visit was only a snapshot in time, given the width of the carriageway and the scale of the existing and proposed development, I consider that even if there was a greater degree of on-street parking this would be unlikely to result in any significant highway safety issues.
9. I also note that the Highway Authority raised no objections to the proposal and a previous proposal which was considered at appeal<sup>1</sup> for the development of 36 dwellings at the appeal site did not include any highway safety concerns which would warrant the withholding of planning permission.
10. Taking all of the above into account, the proposal would not result in any significant harm to highway safety and would accord with Policy BE30 of the Bedford Borough Local Plan (2002) which amongst other matters seeks to have regard to the suitability of access arrangements to and within new development. It would also accord with the transportation aims of the National Planning Policy Framework (the Framework).

### *The Development Plan making process*

11. Paragraph 49 of the Framework sets out that arguments that an application is premature is unlikely to justify a refusal of planning permission other than in limited circumstances where both the emerging plan is at an advanced stage (but is not yet formally part of the development plan for the area) and that the scale of the development is so substantial (or the cumulative effect would be so significant) that to grant permission would undermine the plan making process by pre-determining decisions about the scale, location or phasing of new development which is central to an emerging plan.
12. Paragraph 50 sets out that where planning permission has been refused on the grounds of prematurity the local planning authority will need to indicate clearly how granting planning permission would prejudice the outcome of the plan-making process.

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<sup>1</sup> Reference APP/K0235/W/16/3152962 dated 22 December 2016

13. In the emerging Plan, Wilstead is stated to be a key service centre which by definition contains a good range of services and is well connected to larger town centres by regular public transport. Policy 3S of the emerging Plan sets out that a minimum of 3,636 new dwellings will be allocated and distributed which includes 2,000 new dwellings in key service centres. Whilst the policy goes on to specify the amounts of development in other key service centres, none is explicitly specified for Wilstead. However, given that the number of houses is a minimum amount this does not necessarily preclude any development at Wilstead.
14. The Council have outlined that development should be at a scale that takes account of existing commitments and infrastructure capacity and that it is intended that such growth should be considered through the Neighbourhood Development Plan process so that housing allocations reflect local aspirations.
15. From the information before me the parish of Wilshamstead does have the status as a Designated Neighbourhood Area however the Neighbourhood Plan (NP) has not yet progressed and no sites have been identified for housing. Given that the NP is in its infancy, I can only give this very little weight in my decision.
16. With the above in mind, I consider that the proposed development is not substantial, although I acknowledge that there has been a large amount of new development nearby. That said, from the evidence before me, the prevention of the development of this appeal site could not be considered to be central to the scale or location of new development in the emerging Plan.
17. I have also considered the Council's point that the development is unnecessary as when the Local Plan is adopted there will be a sufficient housing land supply. Whilst this may well be the case, this does not provide for a justifiable reason why permission should not be granted now.
18. Taking all of these factors into account, none of them amount to a compelling reason why the granting of planning permission would be premature to the extent that it would prejudice the outcome of the plan-making process.

*Other matters*

19. I have also had regard to the matters raised in the representations including issues such as access to school places, doctors surgeries, noise and disturbance to the adjoining residents, drainage, and the loss of valuable green space and wildlife areas.
20. From the information before me, there would be a Community Infrastructure Levy payment required from the development and money received from this can be used towards educational funding. In relation to the other matters raised, none of these issues provide for a compelling reason why planning permission should be withheld.
21. I have also had regard to the comments relating to paragraph 14 of the Framework and the NP. However, given that the NP has not been 'made' this is not a relevant consideration.
22. In addition to the above, the Appellant has provided a completed unilateral undertaking dated 15 November 2019 which provides for 30% of the proposed dwellings to be affordable, provision of self-build and custom build plots (which

shall represent plot spaces equal to 12% of the total number of dwellings), build to rent housing (which shall represent 12% of the total number of dwellings), and a health contribution of £26,340 towards the improvement of primary care and general medical services within the vicinity of the development.

23. The delivery of affordable housing together with custom build and build to rent plots are benefits of the scheme, whilst the healthcare contribution would assist in addressing the increase in demand for healthcare services.

#### *Planning balance*

24. In considering the appeal application the Council had found conflict with the adopted Development Plan, but it had regard to the provisions of paragraph 11d) of the Framework as it was acknowledged that they could not demonstrate a deliverable five year supply of housing. The previous appeal decision also found harm in this respect, but that was determined at a time when a deliverable housing supply could be demonstrated.
25. It is acknowledged that the appeal site lies outside of the defined settlement policy area and as such in planning policy terms the site is located in the countryside.
26. Although the Council have not explicitly advanced a case in respect of harm to the character and appearance of the area, given that the proposal would result in the loss of a greenfield site to further development, to my mind, this would result in some harm to the character and appearance of the area. However, this would be the same for most greenfield sites. Furthermore, the appeal site has existing development on its east, west and south sides and as such the development of this site would not result in significant harm in this respect. However, this fact must weigh against the proposal, including its associated conflict with the adopted Development Plan.
27. Notwithstanding that, the development would provide much needed new housing and would provide economic benefits both during the construction process and ongoing support for local facilities and businesses. It would also deliver affordable housing all of which must be considered to be benefits of the scheme.
28. In taking all of the above into account, the adverse impacts of the development do not significantly and demonstrably outweigh the benefits of the proposal. Therefore, I consider that the proposal is sustainable development when considered against the Framework when taken as a whole.

#### **Conditions**

29. The Council has suggested a number of conditions that it considers would be appropriate. I have considered these in light of the Planning Practice Guidance (PPG). For clarity and to ensure compliance with the PPG, I have amended some of the Council's suggested wording, including rationalisation of the information requested as the level of detail of some requirements are not necessary.
30. In addition to the standard reserved matters and timing conditions, a condition is necessary in relation to any play area and the long-term management and

- maintenance of it including proposals for new planting in such amenity and landscape areas.
31. To protect the character and appearance of the area a condition is necessary in relation to details of protection measures to any trees and hedgerows on or off site. For environmental reasons details of biodiversity enhancements are also required.
  32. In the interests of the amenity of the occupiers of adjoining and nearby residential properties ,and for highway safety reasons, a condition relating to a Construction Management Plan is required. Given the possibility of archaeological remains a condition is also required to ensure that any findings are properly recorded
  33. The Council has also suggested conditions in relation to various matters including that no development shall take place until all the reserved matters have been approved; the timing of any hedgerows, trees or scrub removal; mobility standards; existing and proposed land and slab levels; proposed external materials; landscaping and boundary treatments; car and cycle parking within the site; the highway layout and bin storage and collection points.
  34. Details of the existing and proposed land and slab levels; proposed external materials; car and cycle parking within the site; the highway layout and bin storage and collection points would be included within the normal details for the reserved matters and as such specific conditions in relation to these matters are not necessary.
  35. In respect of the timing of any hedgerows, trees or scrub removal, this has been suggested to protect any nesting birds. However, it would be an offence to disturb such nesting birds and as such I consider that such a condition is not necessary.
  36. Additionally, it is not necessary to condition that no works shall take place until all the reserved matters are approved as should any works take place before that time then they would be unauthorised.
  37. Finally, In respect of mobility standards, I consider that this condition is not necessary as the policies which are referred to in the reason for the condition do not relate to the optional requirements in the building regulations, not do they specify what the level of such provision should be made. Given this, such a condition would not accord with the National Planning Practice Guidance.

### **Conclusion**

38. Taking all matters into consideration, I conclude that the appeal should be allowed.

*Chris Forrett*

INSPECTOR

## **SCHEDULE OF CONDITIONS**

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: PL100 revision A and PL102 Revision A (in so far as it relates to the means of access).
- 2) 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 takes place and the development shall be carried out as approved.
- 3) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 4) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 5) The submission of reserved matters for landscaping shall include details of the location and details of all play areas (including equipment type, surfacing, fencing, seating etc.) and the timing of their installation and details of the long-term management and maintenance proposals for the area including new planting for the proposed amenity and landscape areas.
- 6) No development shall take place without having obtained the written approval of the local planning authority for a written survey in respect of the trees and hedges affected by the development. Such survey shall include: -
  - a) A plan to scale showing the location and species of trees and hedges on the site together with any trees and hedges on land adjacent to the site that could affect the development or be affected by the development and identifying whether such trees and hedges are to be retained or removed;
  - b) The details specified in BS 5837 2012 (Trees in Relation to Design, Demolition and Construction - Recommendations; or similar replacement standard) in respect of any proposed pruning, felling or other works to trees or hedges identified on the plan referred to in paragraph a) above;
  - c) In relation to trees and hedges identified for retention on the plan referred to in paragraph a) above, details of alterations to existing ground levels and proposed route of excavations for underground services that may affect the root protection area and details of root protection measures where applicable, which are to be installed prior to the commencement of the development.
- 7) No development shall take place until a scheme for the enhancement of the site for biodiversity purposes, in accordance with the submitted Ecological report dated May 2019 to include timescales for implementation and future management, has been submitted to and approved in writing by the Local Planning Authority. The approved scheme of enhancements shall be implemented in accordance with the approved details and thereafter so retained.

- 8) No development shall take place until a Construction Management Plan, associated with the development of the site, has been submitted and approved in writing by the Local Planning Authority which will include information on:
- (a) The parking of vehicles;
  - (b) Loading and unloading of plant and materials used in the development;
  - (c) Storage of plant and materials used in the development;
  - (d) The erection and maintenance of security hoarding / scaffolding affecting the highway if required;
  - (e) Wheel washing facilities; and
  - (f) Means of access and egress for construction traffic (including relevant signage) and delivery vehicles (including the import of materials and the removal of waste from the site) during the development of the site.

The approved Construction Management Plan associated with the development of the site shall be adhered to throughout the development process.

- 9) No development shall take place until an archaeological strategy for evaluation and, if necessary, a further mitigation strategy based on the outcome of the evaluation has been submitted to and approved in writing by the local planning authority. The archaeological mitigation strategy shall include a timetable and the following components:-
- (i) fieldwork and/ or preservation "in situ" of archaeological remains;
  - (ii) a post-excavation assessment report (to be submitted within six months of the completion of fieldwork);
  - (iii) a post-excavation analysis report, preparation of site archive ready for deposition at a store approved by the local planning authority, completion of an archive report, and submission of a publication report (to be completed within two years of the completion of fieldwork).

The archaeological mitigation strategy shall be carried out in accordance with the approved details and timings.