



Appeal Decision

Site visit made on 28 January 2020

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 March 2020

Appeal Ref: APP/Y0435/W/19/3236891

Land to the east of the Eastfield Drive, Hanslope MK19 7NR

- 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 SiteplanUK LLP against the decision of Milton Keynes Council.
 - The application Ref 17/00838/OUT, dated 10 March 2017, was refused by notice dated 11 March 2019.
 - The development proposed is described as: 'An outline application for the development of 200 units, with all matters reserved'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. For clarity and precision, in the banner heading above I have omitted the name of the representative for the company listed on the application form as appellant, due to inconsistencies with the appeal form. Nonetheless, the company name of the appellant remains the same on the appeal form and application form, thus, no party will be prejudiced.
3. Outline planning permission is sought, with all detailed matters reserved for future consideration. Plans showing possible layout, scale, appearance, landscaping and access have been submitted. However, given that these are reserved matters, I have treated the plans solely as an indication of how the site might be developed. I have determined the appeal on this basis.
4. Since the Council made its decision on the planning application, which is subject of this appeal, the Council's Plan:MK 2016-2031 (PMK) was adopted on 20 March 2019. Consequently, 'saved' Policy S10 of the Milton Keynes Local Plan 2001-2011 (2005) and Policies CS1 and CS9 of the Milton Keynes Core Strategy (2013) referred to in the Council's decision, are no longer in force. The Council has provided a copy of pertinent policies in its submission, referring, in particular, to PMK Policies DS1, DS2 and DS5 and their relevance to the refusal reason. Both main parties are aware of the adoption of the PMK and I will therefore not prejudice any party in taking these policies into consideration in the determination of this appeal.
5. A signed Unilateral Undertaking (UU) dated 9 March 2020 has been provided by the appellant. The Council have confirmed that it agrees to the terms of the UU. The Council confirm that the terms of the obligation meets the tests¹ for

¹ Regulations 122 and 123 (the Regulations) of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended) and paragraph 56 of the National Planning Policy Framework (the Framework).

planning obligations. In the absence of any evidence to the contrary, I am satisfied that the submitted UU would satisfy these tests and meet the requirements of the Regulations. Therefore, for the purposes of this appeal, and in light of comments from both main parties on this matter, I have therefore disregarded the second refusal reason cited on the Council's decision notice.

Main Issue

6. The main issue of this appeal is whether the proposed development would conflict with local and national planning policies, which seek to achieve a sustainable pattern of residential development, including the effect on the character and appearance of the appeal site and surrounding area.

Reasons

7. The site is located outside the development boundary of Hanslope, albeit adjacent, and is therefore located within the open countryside. However, I acknowledge the proximity of the existing residential development on Eastfield Drive and Newport Road that forms part of the existing settlement. The site extends to over 7ha in area, comprising Grade 3b² agricultural land. During my site visit, I noted that a parcel of land within the site was also used for equestrian purposes. The topography of the site has little change in land levels and is bounded by mature hedgerows with occasional mature trees, including a protected Horse Chestnut tree. The site is located within Flood Zone One³ and is at a low risk of fluvial flooding, with a less than 0.1% annual chance of flooding from rivers or the sea.
8. PMK Policy DS1 identifies that the provision of new homes and jobs will take account of the settlement hierarchy set out in Table 4.2, which consists of 3no. sections: 1) Milton Keynes City; 2) Key Settlements and 3) Villages and Rural Settlements. Section no.3 is appropriate to Hanslope, where it advises that development should be in compliance with made neighbourhood plans / within defined settlement boundaries. PMK Policy DS2 sets out the housing strategy for the Borough of Milton Keynes, seeking to deliver 26,500 net dwellings over the plan period. PMK Policy DS5 defines open countryside and lists various situations where development could be granted. The appeal scheme does not correspond with the listed criteria.
9. The Hanslope Parish Neighbourhood Plan 2016-2031 (HPNP) was made on 23 October 2019 and now forms part of the Council's overall development plan. The purpose of the plan is to set out local planning policies that can be used to help determine planning applications in the area covered by the plan. It is a statutory requirement that decisions are to be made with regard to the development plan unless material considerations indicate otherwise. Of course, the HPNP must comply with strategic policies in 'higher order' plans, but otherwise the intention of the Localism Act and of Government policy is that it should give expression to the planning aspirations of local communities enabling them to exercise some control over how the settlements in which they live should respond to the development needs in the locality.
10. HPNP Policy HAN1 defines the development boundary of the village and the built-up area of Hanslope and Long Street villages; Policy HAN2 identifies sites

² Agricultural Land Classification – by Soil Environmental Services Ltd, dated August 2018

³ Planning Practice Guidance (PPG) - Paragraph: 065 Reference ID: 7-065-20140306 Revision date: 06 03 2014

for residential development and Policy HAN4 sets out the design and development principles in the Parish, including a requirement to protect and reinforce, where appropriate, the existing green spaces and respect wider landscape setting of Hanslope, amongst other things.

11. The appellant submitted a Landscape and Visual Impact Assessment⁴ (LVIA) with the application to which I have had regard. I also viewed the site from the majority of locations identified in the LVIA and am satisfied that I saw everything I need to assess the impact of the development. I am unable to share all of the main findings of the appellant's detailed LVIA. I agree that there are no mitigation measures possible that would screen the whole proposal from view in its entirety. I note the suggested considerations to assist with the mitigation of the proposed development, but find these insufficient to counteract the harm created by the residential development on this site. Even though these effects would be relatively localised, there would still be an unacceptable adverse effect.
12. Whilst the proposal is for outline permission only, the effect of erecting 200 dwellings on this site, and the associated infrastructure and domestic paraphernalia, that would be associated with a residential development can still be determined. The site's existing connection to surrounding fields and countryside means it has value in terms of its contribution to the overall landscape and scenic beauty of the area. This would be significantly eroded as a result of any form of residential development and would be readily visible from public land, including the public right of ways⁵ (PROWs), particularly the PROW that runs centrally through the site from Eastfield Drive, where its users would see the harmful erosion of the open and undeveloped character of the site.
13. It is agreed by both main parties that the Council can demonstrate a 5-year Housing Land Supply (5-year HLS). However, both parties have referenced various appeal decisions⁶ for residential development in the Council area, which includes a view reached by an Inspector that the Council could not demonstrate a 5-year HLS. However, relatively little detail has been provided regarding the particular planning backgrounds to these schemes and I do not know what evidence was before the Inspectors at the time of their decisions. Additionally, the Decisions for development in Hanslope were issued before the HPNP was 'made'.
14. Consequently, I cannot be sure that these Decisions, and those for outside the Council area, are entirely representative of the circumstances in the appeal before me. Additionally, I note reference to a judgment⁷ by the appellant in relation to 'valued landscapes' and the planning applications⁸ referenced in Table 2 of the appellant's Statement of Case, the latest of which was subject of approval by an Inspector referenced in one of the earlier appeal decisions. In any event all appeals are judged on their own individual merits. Accordingly, that is how I have assessed this appeal scheme.

⁴ Landscape and Visual Impact Assessment – by AAH Planning Consultants, dated April 2017

⁵ FP044 and FP009

⁶ APP/Y0435/W/19/3220584; APP/Y0435/W/18/3214564; APP/Y0435/W/18/3214365; APP/D3505/W/18/3217096; APP/F4410/W/17/3169288; APP/J0405/V/15/3014403 and APP/Y0435435/W/15/3133940.

⁷ Stroud DC v SSCLG and Gladman [2015] EWHC 488

⁸ 16/02106/OUT; 16/02937/OUT and 18/01625/OUT

15. Whilst, I am mindful that the 5-year HLS figure is not a maximum figure, and that the Framework seeks to significantly boost the supply of housing. I am also mindful of the Housing Delivery Test results that has shown an increase to 94% in the 2019 measurement, when compared against the 2018 measurement. Furthermore, I consider the 'made' HPNP to be a material consideration of significant weight in the determination of this appeal. Paragraph 12 of the Framework advises that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. It further advises that if a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted.
16. Paragraph 13 of the Framework advises that neighbourhood plans should support the delivery of strategic policies contained in local plans or spatial development strategies; and should shape and direct development that is outside of these strategic policies. Even if the presumption at paragraph 11d of the Framework was applied, paragraph 14 of the Framework advises that the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, subject to certain conditions. I consider that the HPNP would meet the criteria listed at paragraph 14 of the Framework.
17. For the reasons given above, I find that the proposed development would conflict with local and national planning policies, which seek to achieve a sustainable pattern of residential development, with associated harm to the character and appearance of the appeal site and surrounding area. Thus, the proposed development would be contrary to the strategic housing, character and appearance aims of PMK Policies DS1, DS2, DS5, HPNP Policies HAN1, HAN2, HAN4 and the requirements of the Framework.

Other Matters

18. I have had regard to no adverse comments being received from the other statutory consultees, including the Council's Highway Engineer and the Flood and Water Management Officer. However, I have considered the development on its own merits and concluded there would be harm to the countryside through unsustainable development. A lack of harm associated with highways and surface water drainage / flooding are neutral factors that weighs neither for nor against the development.
19. Whilst I acknowledge there would be notable economic and social benefits resulting from the development, including the provision of affordable housing, opportunities for public open space and various financial contributions, they are not sufficient to outweigh the harm identified above. My finding remains for the reasons indicated that the site does not accord with the Council's housing strategy.
20. Whilst not cited on the Council's decision notice, I am informed that the site is approximately 170m from the Hanslope Conservation Area and around 350m from the Church of St James the Great, which is Grade I Listed. I am required under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) to have special regard to the desirability of preserving or enhancing a listed building or its setting or any features of special architectural or historic interest which it possesses. Additionally, whilst Section 72(1) of the

Act sets out that in the exercise of planning functions that requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the area, this statutory duty does not extend to the setting of a conservation area. However, as I am dismissing the appeal in any event, I have not needed to consider these matters further.

Planning Balance and Conclusion

21. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. Whilst I acknowledge the factors in favour of the development, those considerations do not outweigh the presumption against the development arising from the development plan.
22. The provision of what is likely to be family homes would generate notable additional social benefits. In addition, there would be notable economic benefits for the locality, both during construction and occupation of the dwellings. However, given my findings above, the proposed development would result in harm to the Council's housing strategy and to the character and appearance of the appeal site and the surrounding area, which would conflict with parts of the environmental objective set out in paragraph 8 of the Framework. Thus, the proposal does not constitute sustainable development.
23. Taking all matters into consideration, I conclude that the appeal should be dismissed.

W Johnson

INSPECTOR