



Appeal Decision

Site visit made on 25 November 2019 by Darren Ellis MPlan

Decision by Susan Ashworth BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th March 2020

Appeal Ref: APP/Y0435/W/19/3235039

Cuckoo Hill Farm, Castlethorpe Road, Hanslope, MK19 7HQ

- 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 S Hill against the decision of Milton Keynes Council.
 - The application Ref 18/03019/FUL, dated 13 December 2018, was refused by notice dated 11 February 2019.
 - The development proposed is the erection of 4 residential dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of four residential dwellings at Cuckoo Hill Farm, Castlethorpe Road, Hanslope, MK19 7HQ in accordance with the terms of the application 18/03019/FUL, dated 13 December 2018, subject to the conditions in the attached schedule.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matter

3. The Council's new development plan for the area, Plan:MK, was adopted in March 2019 and superseded the previous development plan documents, the Milton Keynes Local Plan and Milton Keynes Core Strategy, which were in place when the application was decided. In addition, the Hanslope Parish Neighbourhood Plan (NP) which covers the local area, has also been made since the decision on the application was issued. Both parties have provided comments on these documents with regard to the appeal proposal, and consequently neither party is prejudiced by my consideration of the proposal against these, the most up to date planning policies.

Main Issues

4. The main issue in this case is whether the site is in an appropriate location for housing, having regard to local and national planning policy, with particular regard to the effect of the proposal on the character and appearance of the area.
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Reasons for the Recommendation

5. The appeal site is a grassed area with residential dwellings abutting it on three sides, an industrial area further to the north-west and open agricultural land to the south. The open area to the south of the appeal site has outline planning permission for 50 dwellings which was allowed at appeal¹ in September 2019.
6. Plan:MK indicates that the site lies within the settlement boundary for the village, as set out in the Proposals Map. I understand the settlement boundary was altered from that set out in a previous development plan in place at the time the planning application was determined. It is not disputed by the Council that the site lies within this settlement boundary. On that basis Policy DS5 of Plan:MK, which defines open countryside as all land outside the development boundaries defined on the Policies Map and which seeks to restrict development to certain categories of specific development in the countryside, is not applicable in this case. Policy DS2 which relates to Housing Strategy however, states that the Council seeks to deliver a minimum of 26,500 net dwellings over the period 2016-2031, through, amongst other criteria, permitting development proposals within the defined settlement boundaries where they comply with all other relevant policies of Plan:MK and neighbourhood plans. The Council has not suggested that the proposal would fail to meet the tests of any other relevant policy within Plan:MK.
7. However, the Policies Maps of the Hanslope Parish Neighbourhood Plan identify the site as being outside of the settlement boundary. Whilst the justification to Policy HAN1 states that the policy is consistent with Plan:MK, there is clearly a conflict in this regard.
8. Paragraph 30 of the National Planning Policy Framework (the Framework) states that once a Neighbourhood Plan has been brought into force, the policies it contains take precedence over existing non-strategic policies in a local plan covering the neighbourhood area, where they are in conflict. It seems to me that as set out above, the settlement boundary forms part of the Council's housing delivery strategy. Paragraph 29 makes it clear that Neighbourhood Plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies. The footnote to this paragraph indicates that Neighbourhood Plans must be in general conformity with the strategic policies contained in any development plan that covers the area. In this case therefore it seems to me that the strategic policies in Plan:MK, including the settlement boundary, take precedent over the NP.
9. However, even if the settlement boundary as set out in the NP were to take precedence, planning permission has already been granted for a terrace of 3 dwellings on the appeal site². This permission is still capable of being implemented and therefore carries significant weight as a material consideration.
10. The proposed development would see that provision of one additional residential unit over that already permitted. The terraced form and design of the proposed development would be similar to the approved scheme and its scale would not be significantly increased. I note that the Council's previous objection to the proposal on the basis of its density is no longer being pursued

¹ Appeal ref: APP/Y0435/W/18/3214564

² Application Ref:

because of a change in policy since the application was determined. No other objections to the proposal have been raised.

11. As set out above, the site is currently bordered on three sides by built development, and that planning permission exists for a large residential development to the south of the site. In addition, the development covers only a modest area and in terms of its density or form, would not be incompatible with that of the immediately surrounding area. Consequently, the proposed additional unit would not cause any undue harm to the character or appearance of the area.
12. For the reasons set out above, the proposal would not conflict with the relevant policies of Plan:MK. Whilst there may be a conflict with Policy HAN1 of the NP, material considerations indicate that planning permission should be granted.

Conditions

13. The Council suggested a number of conditions, which I have considered in the light of the advice in the National Planning Policy Framework and Planning Practice Guidance. In some cases I have edited the suggested condition for clarity and enforceability. The appellant has provided agreement to some of the conditions being 'pre-commencement' conditions which I have suggested where appropriate and necessary.
14. I have imposed the standard time limit condition and in the interests of certainty specified the approved plans.
15. In the interests of highway safety, conditions requiring that car parking and bicycle parking should be provided before the dwellings are occupied are necessary.
16. Conditions requiring details of exterior materials, landscaping and boundary treatments are necessary to ensure the development does not cause harm to the appearance of the area.
17. It is necessary to attach a condition that requires details of a foul and surface water drainage scheme to be submitted and implemented, to prevent the increased risk of contamination and flooding on or off site. Such a condition would necessarily have to be discharged prior to development commencing.
18. The Council's suggested conditions 7 and 8, which require an assessment of any potential ground contamination of the site and a Biodiversity Enhancement Scheme and Management Plan respectively, are necessary to ensure a satisfactory development of the site and to mitigate against the loss of habitat. Given the requirements of these conditions, I am satisfied that they should be pre-commencement conditions.

Conclusion

19. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be allowed and planning permission granted subject to the conditions in the attached schedule.

D Ellis

APPEAL PLANNING OFFICER

Inspector's Decision

20. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed subject to conditions.

S Ashworth

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan (Promap), Site Plan Drawing No. RF-18-1513 Sheet 1 revision B, Floor Plans and Elevations Drawing No. RF-18-1513 Sheet 2 revision A.
- 3) Prior to the occupation of the development hereby permitted the car parking area shown on the approved drawings shall be constructed, surfaced and permanently marked out. The car parking area so provided shall be maintained as a permanent ancillary to the development and shall be used for no other purpose thereafter.
- 4) Prior to the first occupation of the development hereby permitted details of bicycle parking shall be submitted to and approved in writing by the Local Planning Authority and the scheme approved shall be provided and be retained thereafter.
- 5) No development shall take place above slab level until details / samples of the materials to be used in the construction of the external surfaces of the dwellings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details / samples.
- 6) No development shall take place above slab level until a scheme of landscaping has been submitted to and approved in writing by the Local Planning Authority. These details shall include existing trees and/or hedgerows to be retained and/or removed accurately shown with root protection areas; existing and proposed finished levels or contours; means of enclosure; visibility splays; areas of hard surfacing materials; proximity between street lights and tree planting; pedestrian access and circulation areas; civic space / public park furniture, play equipment, bins etc.; proposed and existing functional services above and below ground such as cables, pipelines, substations. Soft landscape works shall include planting plans at a minimum scale of 1:200 with schedules of plants noting species, plant supply sizes and proposed densities; written specifications (including cultivation and other operations associated with tree, plant and grass establishment; and the implementation programme. Development shall be carried out in accordance with the approved details.

Any plants or trees which within a period of 2 years from the completion of the development die, are removed or become seriously damaged or

diseased, shall be replaced in the next planting season with others of similar size and species. All hard and soft landscape works shall be carried out prior to the occupation of the building(s) or the completion of the development whichever is the sooner or in accordance with a programme agreed in writing with the Local Planning Authority.

- 7) Notwithstanding the approved details, no development shall take place above slab level until details of the proposed boundary treatments have been submitted to and approved in writing by the Local Planning Authority. The details shall include a boundary treatment plan (at a minimum scale of 1:500) detailing the position of all proposed boundary treatment and annotated or accompanied by a schedule specifying the type, height, composition, appearance and installation method of boundary treatment throughout the site. The development shall be carried out in accordance with the approved details prior to the occupation of any part of the development and shall thereafter be retained in that form.
- 8) No development shall take place until an assessment of ground conditions to determine the likelihood of any ground, groundwater or gas contamination of the site has been carried out in accordance with the Environment Agency's 'Model Procedures for the Management of Land Contamination'. The results of this survey detailing the nature and extent of any contamination, together with a strategy for any remedial action deemed necessary to bring the site to a condition suitable for its intended use, shall be submitted to and approved by the Local Planning Authority before construction works commence. Any remedial works shall be carried out in accordance with the approved strategy and validated by submission of an appropriate verification report prior to first occupation of the development. Should any unforeseen contamination be encountered the Local Planning Authority shall be informed immediately. Any additional site investigation and remedial work that is required as a result of unforeseen contamination will also be carried out to the written satisfaction of the Local Planning Authority.
- 9) No development shall take place until a Biodiversity Enhancement Scheme and Management Plan has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details prior to the occupation of the development.
- 10) Prior to the commencement of the development hereby permitted a detailed design, and associated management and maintenance plan, for a foul and surface water drainage scheme, based on sustainable drainage principles for the site shall be submitted to and be approved in writing by the local planning authority. The management and maintenance plan shall include a detailed timetable for the implementation of the foul and surface water drainage scheme. The approved drainage scheme shall subsequently be implemented in accordance with the approved detailed design and in accordance with the approved timetable for implementation and be retained thereafter