The Planning Inspectorate

Appeal Decision

Site visit made on 27 January 2020

by A Denby BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 May 2020

Appeal Ref: APP/P0240/W/19/3242203
Ley Farm, 107 Castle Hill Road, Totternhoe, LU6 1QG

- 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 Mr Neale Smither against the decision of Central Bedfordshire Council.
- The application Ref CB/19/01422/OUT, dated 3 April 2019, was refused by notice dated 17 July 2019.
- The development proposed is the erection of 3 new dwellings in context to the existing main house.

Decision

1. The appeal is dismissed.

Procedural matters

2. Outline planning permission is sought, albeit with all matters to be determined. I have therefore considered the appeal on this basis.

3. In its evidence the Council referred to policies within the emerging Central Bedfordshire Local Plan 2035. Whilst this plan has completed Examination in Public, I understand that further modifications are necessary. The Council has not conveyed how this may affect the policies to which it has referred. Therefore, whilst I have had regard to them, bearing in mind its stage of preparation, it does not carry full weight.

Main Issues

4. The main issues are:

    - Whether the proposal would be inappropriate development in the Green Belt;
    - The effect on the openness of the Green Belt;
    - The effect of the proposed development on the character and appearance of the area; and
    - Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriate development

5. The appeal site is located within the South Bedfordshire Green Belt, Paragraph 145 of the National Planning Policy Framework (the Framework) sets out the categories of development which may be regarded as not inappropriate in the Green Belt, subject to certain conditions. The exceptions include, at Paragraph 145(e), limited infilling in villages.

6. The Framework does not define a village or what would constitute limited infilling. The appellant has drawn my attention to a High Court judgment[1] which established that it is necessary to consider the facts on the ground. Whether or not a proposal represents limited infilling is ultimately a matter of planning judgment, having regard to factors such as the nature and size of the development, the location of the application site and its relationship to other, existing development adjoining and adjacent to it.

7. The appeal site lies to the south of Castle Hill Road and is isolated from the more concentrated and clustered development in the 'ends' of the Totternhoe settlement or the linear development to the north of Castle Hill Road. There is considerable separation between the site and built development to the east and west, with intervening open fields that are devoid of buildings. Any visual interrelationship is limited and is only in the context of long-distance views. Consequently, the site cannot be considered as forming a gap in an otherwise substantial built-up frontage and the proposals could therefore not reasonably be considered as infilling, limited or otherwise.

8. The appellant has referenced a previous approval for an agricultural storage block to the rear of the existing property.[2] From the details submitted the approved buildings appear to be modest, low-level structures positioned some distance from the rear of the existing dwelling. Therefore, even if this previous approval was implemented, it would not create a context in which the appeal scheme could be considered to constitute limited infilling.

9. As such, notwithstanding the close proximity of the site to existing development along the north of Castle Hill Road, when considered 'on the ground' the appeal site cannot be considered to be within the built confines of the village or constitute limited infilling. Consequently, I conclude that the proposal would not meet the exception criteria of paragraph 145 (e) of the Framework and would therefore constitute inappropriate development.

Openness

10. A fundamental aim of Green Belt policy, as set out in Paragraph 133 of the Framework, is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence. Court judgments, including that referenced by the appellant, have confirmed that there can be both spatial and visual dimensions to openness within the Green Belt.

[1] Julian Wood v The Secretary of State for Communities and Local Government, Gravesham Borough Council (2015) EWCA Civ 195
[2] CB/17/05998/FUL

11. Although there is an existing dwelling on the site, which is to be retained, the site largely consists of undeveloped garden area and paddock. The construction of 3 two-storey dwellings on the site would therefore result in built development where there is presently none. The footprint of the dwellings, their bulk, in addition to the detached garages, sheds and the likely accompanying domestic paraphernalia, such as washing lines and children's play equipment, would inevitably lead to a loss of openness.

12. The proposed dwellings would be clearly separate, sizable buildings and would each sit within their own substantial plots. I therefore conclude that the development would result in significant harm to Green Belt openness and I have attached substantial weight to this harm.

Character and appearance

13. There is a clear settlement pattern to Totternhoe with development concentrated at the 'ends' and along the north of Castle Hill Road. The appeal site does not form part of that, either physically or visually, and from the road is viewed against the backdrop of extensive views of the wider open countryside to the south.

14. The proposed dwellings due to their overall size, bulk and proximity to the site frontage would be prominent features when viewed from the street. They would result in a significant spread of built development across the site and have an urbanising impact, which would harm its rural character.

15. Land levels continue to fall to the south of the site and therefore, when viewed from the south the proposed development would be within an elevated and prominent position.

16. There is existing landscaping to the site frontage, and whilst this may provide some screening, it is not clear how much of this could be retained as part of the proposals. Although the application sought to consider landscaping, no detailed information on existing or proposed landscaping was submitted.

17. The proposed dwellings and the vehicular access would all be in very close proximity to the front boundary. I saw on my site visit that there is hedging to this boundary and also mature trees that would be in very close proximity to the proposed dwellings, particularly Plot 1. Considering the level changes in this location it is not clear if these trees would be affected by the proposals.

18. Similarly, the proposed layout shows the access roads and turning heads in close proximity to the front boundary, and with the level changes there would be limited space for any substantial landscaping. Furthermore, there is little opportunity for landscaping around buildings. There would be scope for more substantial landscaping to the rear of the dwellings though these areas would likely be used as outdoor amenity space. This could limit the long-term retention of any substantial landscaping as future occupants would seek to maximise the southerly aspect and extensive views over the countryside.

19. On the basis of the details before me I am not satisfied that the proposals could achieve a landscaping scheme that would adequately screen the increased spread of substantial built development across the site or mitigate its harmful visual impact. For that reason, this matter could not be addressed by condition.

20. The proposed access would have a more urbanising effect than that approved under a previous scheme[3] for an agricultural storage block to the rear of the existing property. The approved access was narrower and more informal, being enclosed by stock fencing and with a steel gate at the entrance. It would therefore have a distinct agricultural character and appearance, akin with the rural setting of the appeal site, and be clearly associated with the single storey agricultural buildings also approved under that application.

21. The proposed development by contrast would incorporate a footpath to Castle Hill Road and along the access road itself, layby for visitor parking and be viewed in the context of additional urban influences such as the driveways, garage, bin collection points, parked vehicles and the proposed dwellings themselves. Furthermore, the development would erode the contribution that the garden and existing paddock make to the character and appearance of the countryside around the settlement.

22. The proposal would therefore not accord with Policy BE8 of the South Bedfordshire Local Plan Review, 2004 which seeks to ensure that proposals enhance or reinforce the character and local distinctiveness of the area, protect and conserve any natural features and the setting carefully considered, complementing and harmonising with the local surroundings.

Other considerations

23. I have found that the development would amount to inappropriate development in the Green Belt and that there would be significant harm caused to openness. Paragraphs 143 and 144 of the Framework make clear that inappropriate development is harmful to the Green Belt and this is therefore a matter to which I must attach substantial weight. In addition, I have found that the development would also result in unacceptable harm to the character and appearance of the area.

24. There is some disagreement between the parties with regards to whether the Council can demonstrate a 5year Housing Land Supply (HLS). The proposal would contribute towards local housing supply and this would be a benefit of the scheme. However, there is little detail in the evidence before me in relation to housing needs or delivery, for Totternhoe or the wider area. Even if there is a shortfall in delivery or HLS of the scale suggested by the appellant the provision of three dwellings could only have a limited benefit in relation to boosting the mix and supply of housing and would not in itself amount to very special circumstances.

25. That the proposed dwellings would be located close to local services, achieve high quality design and utilise appropriate materials would have a neutral effect and these matters do not, therefore, weigh in favour of the appeal. I therefore find that the other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.

26. Paragraph 11 of the Framework sets out a presumption in favour of sustainable development. However, paragraph 11 d)i is clear that where the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, the

[3] CB/17/05998/FUL

presumption in favour of sustainable development does not apply. Footnote 6 to this paragraph includes the Green Belt. As such the presumption in favour of sustainable development is not engaged in this appeal.

27. The appellant has stated that the emerging local plan acknowledges a need for Green Belt release and Green Belt villages would need to meet some of that demand. They reference a proposal within the emerging Local Plan to allocate land in Chalton, a similarly sized village to Totternhoe, to illustrate this point. However, as detailed above, modifications are necessary to the emerging plan and the Examiners' letter[4] recommends the Chalton allocation be deleted as the exceptional circumstances necessary to justify releasing that site from the Green Belt have not been demonstrated. There is little in the evidence before me to suggest that the appeal site would form part of any strategic allocation or be affected by any proposed modifications to the emerging local plan and this does not, therefore, lead me to a different conclusion.

28. The appellant has also referenced appeal decisions[5] where they state the Inspectors attached significant weight to the lack of HLS. The decisions related to sites within different local authority areas, where the HLS and local policy frameworks would have been different. The first decision appears to have included previously developed land, and it was determined that the proposal would have no greater impact on openness. The Inspector attached very substantial weight to the contribution of the scheme to the provision of market, and the pressing need for affordable, housing in that area. However very significant weight was also attached to the recreational and environmental benefits of the scheme and the architectural and townscape quality of the scheme. The Inspector acknowledged that unmet housing demand alone was unlikely to outweigh harm to constitute very special circumstances but taken together, the other benefits clearly outweighed the harm and amounted to the very special circumstances necessary to justify the decision in that case.

29. With the second appeal decision both parties agreed a HLS could not be demonstrated. The only barrier to the site being allocated for housing within the local plan appears to have been related to highway concerns, which the Inspector concluded were not a constraint to development. The harm to the Green Belt was considered minimal and assessments had identified the site as having the lowest Green Belt value. The Inspector concluded that the proposal would deliver a significant proportion of the identified housing needs for the key settlement and accord with the spatial strategy.

30. Therefore, whilst I am mindful of those decisions, they dealt with proposals that were significantly different to the scheme before me, and the lack of HLS alone did not amount to the very special circumstances that ultimately justified the decisions in those cases. As detailed above the other considerations for the appeal scheme would not amount to very special circumstances and as such these other appeal decisions do not, therefore, lead me to a different conclusion.

[4] The Planning Inspectorate: Examination of Central Bedfordshire Local Plan dated 30 September 2019
[5] APP/G5180/W/18/3206569 & APP/P3040/W/17/3185493.

Conclusion

31. For the reasons given above the appeal should be dismissed.

A Denby

INSPECTOR