



Appeal Decision

Site visit made on 23 March 2020

by David Carter BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th May 2020

Appeal Ref: APP/P0240/W/19/3243693

Land adjacent Bradshaws Haulage, Old Main Road, Haynes MK45 3QS

- 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 Ms Wendy Bradshaw against the decision of Central Bedfordshire Council.
 - The application Ref CB/19/01789/FULL, dated 28 May 2019, was refused by notice dated 8 August 2019.
 - The development proposed is erection of a detached dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - (i) whether the appeal site represents an appropriate location for the development proposed,
 - (ii) the effects of the proposal on the character and appearance of the area, and
 - (iii) whether the proposed development would provide acceptable living conditions for future occupants with regard to any noise and odour impacts.

Reasons

The location of the proposed development

3. The appeal site is a small field located on the southern side of Old Main Road close to its junction with the A6. It is adjacent to Bradshaws Haulage depot and a compost recycling facility to the south with fields to the north and east. A small linear group of dwellings lie around 100m along Old Main Road. The main village of Haynes is located around 3km to the north-east.
4. This issue focuses on; the sustainability of the site location, its relationship to the development strategy; its accessibility particularly by sustainable transport modes and; the availability of local services taking account of recent appeal decisions and Caselaw. The Central Bedfordshire Core Strategy and Development Management Policies North (CSDMP) was adopted in 2009 and because of this the appellant has suggested the tilted balance should apply, thus querying the consistency of the extant policies with the Government's National Planning Policy Framework (the Framework). I return to the applicability of the tilted balance later in my decision, although note that the

appellant does not dispute that the Council is able to demonstrate in excess of a 5-years supply of housing land, as generally recognised by Planning Inspectors in recent cases, although notes that Government advice requires the supply of homes to be significantly boosted. The Central Bedfordshire Local Plan (LP) is at an advanced stage, having been submitted in April 2018 but is still undergoing its public examination. As such, it carries limited weight at this stage.

5. The development strategy set out by the CSDMP seeks, through Policies CS1 and DM4, to restrict new development in the open countryside through the definition of a settlement hierarchy and associated settlement and village envelopes. The main village of Haynes is identified as a 'Large Village' within the rural area and it is common ground between the parties that the appeal site falls outside of the identified village envelope.
6. Since the CSDMP was adopted in 2009 the Judge noted in *Gladman Developments Limited v SSHCLG & Central Bedfordshire Council* [2019] EWHC 127 (Admin), that in order to meet increasing housing needs, the new Local Plan will need to allocate new housing sites outside of existing settlement envelopes as defined by the CSDMP. However, that is a matter for the LP Examination which, as noted above, is ongoing and must deal with this appeal on its merits, in accordance with the development plan unless material considerations indicate otherwise.
7. Notwithstanding this, the explanatory text to Policy DM4 recognises that small scale housing developments may be permissible in the countryside under certain circumstances, referring to the national guidance in force at that time. This might include exception schemes or to meet the essential needs of those employed in agriculture or forestry or for a replacement dwelling. The section on rural housing in current Government Guidance adopts a similar approach. The appeal scheme has not been advanced as meeting any exceptional or specific housing need.
8. In these circumstances, I would not agree that the appeal site should be viewed as an under-used infill site within an otherwise built up frontage between the Haulage Depot and the existing run of dwellings further along Old Main Road.
9. Reference to recent caselaw above, indicates that Policy DM4 is more restrictive than the approach in national guidance taken as a whole by providing blanket protection to open countryside. However, given the appeal proposal is for a single dwelling and in advance of the emerging LP, the approach in the Policy DM4 remains broadly consistent with the approach to rural housing in the Guidance and therefore should be attributed moderate weight.
10. Moving onto the availability of transport infrastructure and accessibility to services, the key attributes of the site are: its proximity to the A6 giving access by motor vehicle north to Bedford and to the south towards Luton; the proximity of the site to bus stops on the A6 which has two services (Nos 44 and 81) providing regular services from the early hours until late in the evening to Bedford, Ampthill and Luton, but with no services on Sundays or Bank Holidays. However, there are no bus shelters and there is no pedestrian crossing facility on the A6, a busy road. In addition, the appellant has noted there is an additional community bus service in the area (Flittabus). This

provides two further nearby services to Milton Keynes on the second and third Tuesdays every month. For pedestrians, apart from a short stretch of footpath from the junction of Old Main Road to the bus stop, none of the roads possess footpaths and the roads are quite narrow and unlit which means that walking to/from the appeal site would be relatively hazardous. Similarly, while cycling is possible there are no dedicated cycling facilities.

11. The parties disagree on the extent to which this level of accessibility amounts to a sustainable location for development. The frequency of bus services on the A6 provides a reasonable choice of travel mode to key destinations but the poor quality of pedestrian and passenger facilities does not make the bus an attractive modal choice. The community bus services, while very welcome, do not really add significantly to the public transport offer. None of the services provide regular or frequent access to the village of Haynes which means that most local services are not easily accessible by means other than the private motor vehicle. Realistically, the distances involved in walking to local services would be prohibitive to most people and while these would be within easy cycling distance the narrow roads must present safety concerns.
12. Taking the above considerations into account I find that the occupants of the appeal proposal would most likely rely on private motor vehicles to access services and facilities both locally and further afield. While there is a public transport choice available for some trips, it would not be a particularly attractive option to prospective occupiers of the new dwelling. The suggestion that the development could be conditioned to provide for charging of low emission vehicles would have a neutral effect in the planning balance because such a condition could apply in most locations. With reference to the Braintree DC v SSCLG [2018] EWCA Civ. 610 judgement highlighted by the appellant, I recognise that new housing might help support the vitality of the rural community through use of local services and facilities, thereby contributing to the social dimension of sustainable development, but in this appeal the beneficial effects of a single dwelling are likely to be limited and, given the distance to the village of Haynes, where most of the facilities are located, it is by no means certain that the occupants would choose to use the local facilities in preference to other options.
13. I have had regard two other appeal decisions raised by the appellant (APP/P0240/W/18/3211614 and APP/P0240/W/17/3174483) but note the circumstances in each case are necessarily different and I do not have access to the full details of those cases. Because of this, I respectfully do not necessarily draw the same conclusions as my colleague Inspectors when applied to the specific characteristics of this case.
14. To conclude on this main issue, I find that the appeal lies outside a defined settlement envelope boundary. In addition, the dwelling proposed does not fall under the categories identified as potentially permissible within open countryside under Policy DM4 of the CSDMP. It's siting, coupled with the pattern of transport infrastructure also means that it would not be readily accessible to services and facilities by means other than private motor vehicles. As such it would conflict with Policies CS1 and DM4 of the CSDMP and relevant parts of the Framework, which together seek to direct new development towards sustainable locations.

Character and appearance

15. The explanatory text to Policy DM4 of the CSDMP defines infill development as, "small-scale development utilising a vacant plot which should continue to complement the surrounding pattern of development". The appellant suggests that the proposed development falls within this definition since it comprises an under-used site within a gap in an otherwise built up frontage between the haulage depot and the existing linear grouping of a small number of dwellings further along Old Main Road.
16. The appeal proposal would be aligned on the site to match the general set back of the nearby dwellings. The bedrooms would be provided in the roof space which would help reduce the height of the building and the field within which the site is located would become the garden. This would have a site area of c0.4 hectares. Additional planting and landscaping would further screen views of the site from Old Main Road.
17. The gap comprises two fields that front onto Old Main Road. The level of the land rises gently away from the road so the countryside character, when viewed from the vicinity of the appeal site, is principally determined by these two fields. There are substantial hedgerows to the field boundaries which affect views but, aside from these, any changes to the use of the fields would have an impact on the existing countryside character. Vegetation on the south side of the appeal site also screens views of the haulage depot buildings which help reinforce the countryside character. The appeal site has intrinsic value as open countryside within this rural part of Central Bedfordshire, but also lies within the Greensand Ridge Landscape Character Area which is an area given specific protection in Policy DM14 of the CSDMP.
18. Notwithstanding the mitigation measures suggested, the proposed dwelling would have a harmful impact on the rural character of the appeal site and its surroundings. The proposed dwelling would be visible from Old Main Road and, while the hedgerow would be retained, views of the surrounding land would change from that of an agricultural field to a garden. While the field does not appear to be actively farmed at present, that is a matter for the future management of the land. The proposed change of use of the site would also result in a low density of development. While this might help mitigate the impact to some degree by leaving much of the site open, it suggests an inefficient use of land further highlighting the inappropriateness of residential development in this countryside location.
19. I have had regard to another appeal decision (APP/P0240/W/19/3223970) raised by the appellant but note the circumstances of that case (14 dwellings on a site adjacent to an identified settlement envelope) are substantially different and I do not have access to the full details of that case. Because of this, I respectfully do not necessarily draw the same conclusion as my colleague Inspector when applied to the specific characteristics of this case.
20. In these circumstances, I conclude on this main issue that the appeal site should not be regarded as an under-used infill site within an otherwise built up frontage between the Haulage Depot and the existing run of dwellings further along Old Main Road. The gap is significant in extent, comprised of the frontage of two fields separating industrial and residential uses. As such, the development of the appeal site would be visually harmful to the countryside character and appearance within this rural area in conflict with Policies CS16,

DM3, DM4, and DM14 of the CSDMP. Together these policies seek to encourage high quality development respecting the local context and conserving and enhancing the varied countryside character. The Design Guidance (adopted 2014) then provides more detail on the approach to design. The provisions of the National Planning Policy Framework 2019 broadly reinforce the approach in the CSDMP in respect of this main issue.

Living conditions

21. When the Council determined the planning application, a lack of supporting information concerning the potential effects on the living conditions of future residents of the proposed dwelling arising from noise and odours from the adjacent haulage depot and waste composting facility was highlighted.
22. In response, the appellants prepared, and submitted as part of this appeal, technical reports dealing with these two matters. The appellants contend that the reports show that mitigation in relation to both matters could be covered by conditions.
23. In relation to noise, it is suggested this would only occur during daytime hours on working days and that any concerns in this respect could be covered by the construction of an acoustic fence along the common boundary with the haulage depot, coupled with the fitting of enhanced glazing to the new dwelling.
24. In relation to odours, I have noted there is some history of complaints of odours from the composting facility experienced by residents who reside further away than the appeal proposal. It is suggested that any issues could be addressed through fitting mechanical ventilation to the proposed dwelling.
25. A further point raised in mitigation is that any adverse effects would not cause problems since the appellant part owns the neighbouring facilities. This suggests that the occupiers of the proposed dwelling might be prepared to accept a lower quality of living conditions because of their current interests in the neighbouring business activity.
26. The technical reports produced in respect of noise and odour impact assessments demonstrate that there are outstanding concerns regarding both matters. The reports go on to suggest it might be possible to mitigate both issues in respect of the internal space by way of suitably worded conditions. However, such conditions would not satisfactorily deal with either matter in respect of effects on the outdoor space at the appeal site. It seems unlikely that all occupants of the proposed dwelling would work on the adjacent site and odours from the waste operation do not respect working hours and are likely to be most problematic during the warmer months. There is also no guarantee that future occupants of the dwelling would have any connection with the adjacent business activity.
27. On this main issue, I find that the additional technical evidence prepared as part of this appeal demonstrates that the effects of noise and odours from the adjacent business activities would have a harmful and unacceptable impact on the living conditions of future occupiers of the proposed development. The appellant's suggested use of conditions to mitigate these impacts would not make the proposed development acceptable since they would fail to protect the living conditions of all future occupants when using the outdoor space. Accordingly, the proposal conflicts with Policy DM3 of the CSDMP and the

Design Guidance (adopted 2014) which seek to ensure that the living conditions of the occupiers of new residential development are not compromised. The approach is consistent with the provisions of the Framework.

Other matters

28. In relation to the economic strand of sustainable development there is no dispute between the parties that the construction of one new dwelling would lead to limited economic benefits arising particularly from the construction phase.
29. It is also common ground that by sharing the existing means of access with the haulage depot, the proposal does not lead to concerns over highway safety with regard to vehicular access to/from the proposed dwelling.

Planning Balance

30. As noted above, the parties disagree as to whether or not Paragraph 11d of the National Planning Policy Framework is engaged. There are 2 aspects to this; housing land supply and; whether the most important development plan policies are out of date for other reasons. I consider these in turn.
31. In relation to housing land, the Council have noted that in several recent appeal decisions Planning Inspectors have tested and accepted there is a five year land supply in the District, excluding unmet need from Luton. The appellant's have not presented new information which would lead me to come to a different view to my colleague Inspectors. Accordingly, I consider that development plan policies in respect of housing land supply are not out-of-date and NPPF paragraph 11d is not engaged.
32. With regard to other development plan policies, in my judgement, the policies most important to the determination of this appeal comprise CS1, CS16, DM3, DM4 and DM14 of the CSDMP. These policies have been identified in the Council's reasons for refusal. The appellant's evidence does not specifically address Policy DM14.
33. Policy CS1 identifies the development strategy, accommodating growth towards growth locations and areas. In particular, the policy also sets out the settlement hierarchy for growth across the remaining rural areas identifying large and small village designations. In relation to this appeal, and in the context of a satisfactory current supply of housing land, this approach remains relevant pending its review.
34. Policy DM3 encourages high quality development and is broadly consistent with the Government's approach to design in the Framework. As such this policy remains up to date and highly relevant in relation to the determination of this appeal.
35. It has been established by caselaw that Policy DM4 does fully not conform to national guidance because of its blanket protection to land outside settlement envelopes. Nevertheless, for the reasons set out above, it retains significant relevance in the context of this particular appeal site.
36. Policies CS16 and DM14 cover landscape matters which, in combination, help address the identified deficiency of Policy DM4, thus providing the extra clarity

regarding landscape protection sought by the Framework (especially paragraph 170).

37. Taken as a whole, therefore, I find that this basket of development plan policies remains relevant and up to date for the determination of this appeal and in this regard NPPF paragraph 11d is not engaged.
38. In view of my analysis of the main issues and other matters I find that the proposed development raises significant concerns regarding: its likely reliance on private motor vehicles for access; its harmful effects on the countryside character and appearance of the locality, as well as; its impact on the living conditions (noise and odour) of future occupants. Accordingly, I find that the adverse environmental impacts of the proposed development would demonstrably outweigh the social and economic benefits in conflict with CSDMP Policies CS1, CS16, DM3, DM4 and DM14.

Conclusion

39. For the reasons stated above, the appeal is dismissed.

David Carter

INSPECTOR