



Appeal Decision

Site visit made on 30 June 2020

by A Denby BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 August 2020

Appeal Ref: APP/K0235/W/20/3245357

Land adjacent New Farm, Colesden Road, Colesden, Bedford, MK44 3DB

- 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 Paul Matthews against the decision of Bedford Borough Council.
 - The application Ref 19/01407/OUT, dated 26 June 2019, was refused by notice dated 2 September 2019.
 - The development proposed is outline application with all matters reserved for the erection of a detached dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Outline planning permission is sought with all matters reserved for future consideration. I have therefore considered the appeal on this basis.
3. Since the application was submitted, the Bedford Borough Local Plan 2030 (LP) has been adopted. The LP has replaced the Core Strategy and Rural Issues Plan, 2008 and saved policies from the Bedford Borough Local Plan, 2002. In its statement the Council has indicated that it considers policies 3S, 4S, 5S, 6, 7S, 28S, 42S, 51S & 92 of the now adopted LP to be relevant to the appeal proposal. The appellant has had the opportunity to comment on these policies. Against this background, no injustice has been caused to either appeal party. I have therefore had regard to the most up to date development plan policies as I determine this appeal.

Main Issues

4. The main issues are:
 - whether the site is an appropriate location for housing having regard to its accessibility to services and facilities by sustainable modes of transport;
 - whether the proposed development would be acceptable in respect of the risk from flooding;
 - whether sufficient information has been provided to assess ecological effects; and

- the impact of the proposed development on the character and appearance of the countryside

Reasons

Location

5. The site is located within Colesden which is a dispersed settlement with very limited services and facilities, none of which are located close to the appeal site. The site itself forms part of the garden area of an existing dwelling and the proposal is to erect a dwelling on the site. LP Policy 3S sets out the overarching strategic framework for new development to ensure it is in a sustainable location and meets identified needs.
6. The appeal site is not within a Settlement Policy Area or Small Settlement, as identified in LP policies 4S, 5S and 6, and is therefore situated within open countryside. Accordingly, it falls to be considered against LP Policy 7S which states that development in the countryside will be permitted if it is appropriate in the countryside, in accordance with other specified plan policies, and exceptionally, on a site that relates well to a defined Settlement Policy Area, Small Settlement or the built form of other settlements where it can be demonstrated that a number of criteria are satisfied.
7. The proposal does not meet the exception criteria set out under vi)-x) of LP Policy 7S and so would be contrary to the policy on that basis. With regard to other plan policies, none have been identified as being relevant in relation to the appeal scheme.
8. The nearest services and facilities to the site would be within Wilden and Great Barford, though occupants would also likely need to travel to Bedford or St Neots urban areas to meet their day to day needs. There is a lack of streetlighting and footpath to Colesden Road, with only grass verges to either side of the road. A large section of Colesden Road is subject to a 40mph speed limit, though this does change to the national speed limit adjacent to the north-west corner of the site.
9. Wilden is a significant walking distance from the site and there would be a reliance on grass verges for access. These are uneven and unsuitable for walking, cycling or using pushchairs and wheelchairs. Furthermore, considering the speed limits in place, attempting to walk alongside the road with fast moving traffic may put anyone attempting to do so at considerable risk.
10. There are no bus stops in close proximity to the site and considering the above, occupants would be largely dependent on the private car for access to services and facilities. The development would be physically isolated from settlements, with facilities and services both in terms of distance and the absence of suitable routes to them, or anywhere else, by means other than private motor vehicle. As such it would fail to meet the approach within the National Planning Policy Framework (the Framework) of giving priority to pedestrian and cycle movements, and so far as possible, facilitating access to public transport.
11. The appellant states that it is possible to drive to Wilden or Great Barford and switch to bus services to facilitate access to a wider range of services in Bedford. Whilst there appears to be a reasonable bus service available from those settlements, I saw on my site visit that there do not appear to be any dedicated park and ride facilities in those locations, and parking provision is

generally limited to on-street, particularly in Wilden. I am therefore not persuaded that this would present a realistic or attractive option. I consider it more likely that once in their vehicles, occupants would be more likely to simply continue driving to the Bedford urban area, or other centres with a greater range of services and facilities. Such a lack of accessibility by means of transport other than the private car weighs significantly against the proposals.

12. For the reasons outlined above, the development would therefore fail to accord with LP Policies 3S and 7S, which seek to direct housing to key service centres and safeguard the intrinsic character of the countryside, only permitting development in the countryside where it involves the reuse of redundant or disused buildings or is well related to existing settlements, would support local facilities or responds to an identified need.
13. The appellant has stated that as the site is garden land, not in a built-up area, it should be considered as previously developed land (PDL) and has referred to a high court judgement¹ and Inspector's decision² on this matter.
14. I note the site subject of the referenced appeal decision was located directly adjacent to a recognisable hamlet where services and facilities were available. There was also a nearby settlement with facilities for day to day living, including schools, post office, library, convenience store and health centre and this was within walking distance, with footpaths available over some of the distance. In addition, the area was served by a bus service and would only result in a small increase in the use of the private car.
15. It was the totality of these factors that led the Inspector to determine the location of the site was acceptable. That the site was PDL did not alone justify the decision in that case. Therefore, whilst I am mindful of that decision, the circumstances are not directly comparable to the appeal scheme which is not close to local services and facilities and would be heavily reliant on the private car. In any case, the appeal scheme must be considered on its own merits.
16. Policies S3 and 7S are consistent with the National Planning Policy Framework (the Framework) which states at paragraphs 78 and 79, that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities, and that planning decisions should avoid the development of isolated homes in the countryside unless particular specified circumstances apply.
17. The appellant has referenced a Court of Appeal Judgement³ regarding whether a site can be considered to be isolated. Whilst the site may not be physically isolated from other development, as detailed above it is situated within open countryside and it is still detached from local services. Even in considering that transport solutions will vary from urban to rural areas, due to its location the development would be overly reliant on the private motor vehicle and have very limited options in terms of sustainable modes.
18. The Covid-19 pandemic has affected choices in relation to modes of transport in the short term, whilst the pandemic is still ongoing. However, there is no suggestion that there should be a greater reliance on the private car in the long

¹ Dartford BC v SSCLG [2016] EWHC 635 (Admin)

² APP/K0235/W/19/3221112

³ Braintree DC v SSCLG, [2018] EWCA Civ 610

term, or a shift away from the promotion of sustainable modes of transport. This matter does not, therefore, lead me to a different conclusion.

Flooding

19. The appeal site appears to largely fall within Flood Zone 1, although parts to the south-west corner and southern site boundary are within Flood Zone 2 and 3b (functional flood plain). Therefore, in accordance with LP Policy 92 and the Framework the application is subject to a sequential assessment and should be accompanied by a Flood Risk Assessment (FRA). The appeal scheme however has not addressed either of these matters.
20. The scheme seeks outline consent with all matters reserved, though the appellant has provided an indicative layout to demonstrate that a dwelling could be located wholly within Flood Zone 1. This however is based only on the Environment Agency (EA) flood map which, although providing an indication of the flood zones, is not sufficiently clear or precise.
21. On the basis of the information submitted, it cannot be determined with any degree of certainty that the development could be contained wholly within Flood Zone 1 or that it would be safe for its lifetime taking into account the vulnerability of its users, and would not increase flood risk elsewhere. This matter could not therefore be dealt with by condition. The internal drainage board did not raise an objection in relation to flood risk. However, I note that they did have concerns in relation to surface water drainage.
22. I therefore conclude that insufficient information to enable a full assessment of the effect of the development on flood risk has been provided. The proposal would therefore be contrary to LP Policy 92, which seeks to ensure that development is directed to areas at lowest risk of flooding and ensure that proposed development assesses and mitigates its impact on flood risk. For the same reasons the proposal would fail to adhere to the guidance contained within the Framework.
23. The appellant has drawn my attention to an Inspector's decision⁴ where it was determined that, on a site which partially fell within Flood Zones 2 and 3, the siting of the dwelling could be dealt with at reserved matters stage. I note however that submission was accompanied by an FRA. This demonstrated that there was sufficient space to accommodate a dwelling in Flood Zone 1 and that appropriate mitigation could be provided. As detailed above, this is not the case with the current appeal scheme and this does not, therefore lead me to a different conclusion.
24. The appellant refers to the proposals involving a self-build and I have dealt with this matter in more detail elsewhere in this decision. However, in terms of this main issue, this would not negate the need for an assessment in relation to flood risk and there would be no difference in terms of the vulnerability of the end user, and so this does not address the concerns I have raised.

Ecology

25. LP Policy 42S states that planning applications for development are required to assess the impact of the proposal on the biodiversity and geodiversity value of

⁴ APP/H3320/W/19/3219944

- the site and its surroundings. The Framework further sets out that planning decisions should minimise impacts on and provide net gains for biodiversity⁵.
26. Circular 06/2005 advises that it is essential that the presence, or otherwise, of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. It goes on to state that surveys should be carried out before planning permission is granted.
27. The site is within the open countryside, and although the grass is largely manicured, there are mature trees and a drainage channel present on the site. Furthermore, within the wider area I saw on my site visit that there are areas of woodland, ponds and watercourses in the vicinity of the site. These features all have the potential to support protected species providing nesting, foraging and commuting habitat.
28. In the absence of an appropriately conducted survey by a qualified ecologist, it is simply not known whether protected species are present and, if there are, whether or what mitigation measures would be appropriate. Given this degree of uncertainty, and the clear guidance of Circular 06/2005 that the effect on protected species is established before planning permission is granted, the use of conditions to require a survey to be undertaken would not, in this case, be reasonable.
29. Consequently, I am not satisfied that sufficient information has been submitted to demonstrate that the appeal scheme would avoid or adequately mitigate unacceptable harm to protected species. The development would therefore conflict with LP Policy 42S and the Framework⁶ which also advises that where significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated or compensated for, then planning permission should be refused.

Character and appearance

30. The wider landscape around the site is typically open agricultural fields, interspersed with woodland and mature landscaping. The appeal site consists of garden area associated with No 2 New Farm Cottages and is largely laid to grass. There is a small timber structure to the south-east corner of the site and post and rail fence to the site frontage, but otherwise the site is devoid of structures. There is an informal vehicular access into the site via a timber 5-bar gate and a number of mature trees to the site frontage.
31. No 2 has an area of private amenity space to the rear and the site, being more exposed, does not appear to form the primary outdoor space. Although the grass is manicured, with the tree planting the site has a character and appearance more akin to an orchard than a domestic garden.
32. Considering this, and that the site is visually and physically separated from the adjacent dwellings by high hedge and timber fencing, it visually relates more to the open countryside and has an open and spacious character. The site also has a wide frontage and there are extensive open views across the site to the open countryside beyond.

⁵ Paragraph 170

⁶ Paragraph 175

33. There is a loose knit ribbon development to this section of Colesden Road and the indicative layout plan shows that a dwelling could be accommodated that would largely follow the general linear arrangement this existing development.
34. However, any development on the site would erode its current spacious and open character. It would have a more urbanising effect, and along with other urban influences, such as parked vehicles, domestic paraphernalia, such as washing lines and children's play equipment and the proposed dwelling itself, detract from the rural character of the area. This impact would be significantly increased and more concentrated than the existing garden which forms part of a much larger outdoor area and is more detached from the dwelling it serves.
35. Whilst these concerns could be addressed to a certain extent through the submission of reserved matters, the site is also of limited depth and any proposed dwelling would be in close proximity to the site boundaries. Considering this and the constraints that exist on the site, such as the mature trees and drainage channel I am not satisfied that the proposals could achieve a landscaping scheme that would adequately integrate or screen the built development. Furthermore, development of the site would erode the contribution that the existing garden area makes to the character and appearance of the countryside.
36. For the above reasons, I conclude that the development would conflict with LP Policy 28S (ii) which seeks to ensure that development has a positive relationship to the surrounding area and integrates and complements the character of the area in which it is located.

Planning Balance

37. The Council has stated that following the adoption of the LP they are able to demonstrate a 5year housing land supply and therefore paragraph 11 d) of the Framework is not engaged in this appeal.
38. I note that LP Policies and the Framework emphasise the need to support the efficient use of land and that the proposal would provide an additional dwelling. Although I recognise the important contribution small sites can make to meeting the housing requirements of an area, the provision of one additional dwelling would have a limited impact in relation to boosting the supply of housing. Similarly, any employment created during construction and from future occupants use of local services would only result in temporary and modest benefits.
39. I acknowledge the provisions of the Self-Build Custom House Building Act 2015 (as amended), alongside paragraph 61 of the Framework which supports self-build and custom housebuilding. I also agree with the appellant that self-build proposals can include affordable housing in accordance with the Framework.
40. There is however limited detail to demonstrate the extent of any existing shortfall or that a self-build or affordable dwelling in this particular location would meet any identified local need. Furthermore, I have no mechanism before me to ensure that the proposed dwelling would be a self-build or custom property and not be offered on the open market.

41. The appellant has referred me to an appeal decision⁷ where the Inspector considered the provision of 9 self-build properties to weigh heavily in favour of the proposal. However, in that case evidence was submitted that identified a significant shortfall in relation to the delivery of self-build housing. In addition, it was demonstrated that demand existed within the village for that type of development and the submission was accompanied by a signed unilateral agreement. The site was also located at the edge of the village and within walking distance of the village centre, local services and facilities and public transport. As I have outlined above this is not the case with the appeal scheme and I do not consider the proposals are directly comparable.
42. The benefit of allowing self-build provision on the site does not therefore outweigh the harm I have identified in relation to the location of the dwelling and its limited accessibility to services and facilities by sustainable modes of transport, flooding, ecology or the character and appearance of the area. Moreover, there is no substantive evidence that local self-build or affordable housing requirements cannot be met through proposals that accord with the Development Plan.
43. Whilst I am mindful of the appellant's individual circumstances and connection to the area there is little to suggest the appeal scheme is the only way of meeting these personal needs. The appeal scheme must be considered on its merits and I do not find that the personal circumstances would outweigh the harm I have identified.
44. The provision of electric vehicle charging points, to contribute towards sustainability, in accordance with LP Policy 51S, is of neutral weight given that it serves to offset the impact of traditionally fuelled cars which would be more heavily utilised due to the appeal site location.

Conclusion

45. For the reasons stated above I therefore conclude that the appeal should be dismissed.

A Denby

INSPECTOR

⁷ APP/W0530/W/19/3230103