



Appeal Decision

Site visit made on 24 August 2020

by David Carter BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th November 2020

Appeal Ref: APP/P0240/W/20/3248094

Chalkcroft Nursery, Asterby, The Ridgeway, Moggerhanger MK44 3PH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Eva Aldridge against Central Bedfordshire Council.
 - The application Ref CB/19/04264/FULL, is dated 18 December 2019.
 - The development proposed is a replacement residential house.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of an agricultural building and erection of a dwelling house at Chalkcroft Nursery, Asterby, The Ridgeway, Moggerhanger MK44 3PH in accordance with the terms of the application, Ref CB/19/04264/FULL, dated 18 December 2019, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The description of the development above is as set out on the application form. However, the appellant adopted the Council's description on the appeal form which was, "demolition of an agricultural building and erection of a dwelling house". There is no evidence to suggest the appellant challenged the revised description and I have determined the appeal on this basis.
3. The appeal into non-determination of the planning application was submitted the day following the due date. The Council have indicated that had they had the opportunity the application would have been refused for the following reason, "The proposed development is located a significant distance outside of the settlement envelope of Blunham and Moggerhanger, and over 1km from their main shops, services and amenities, with no pedestrian link or public transport linking the site with the settlement. The development proposal is not therefore considered to represent a sustainable form of development and is contrary to Policy DM4 (Development within and Beyond Settlement Envelopes) of the Central Bedfordshire Core Strategy and Development Management Policies (2009), and the objectives of sustainable development as outlined in the National Planning Policy Framework (2019)".
4. The appeal property is an existing horticultural building which has Class Q Prior Notification consent (CB/17/05891/PAAD) granted in January 2018 for conversion to a dwelling house. The Council's statement indicates that a new Prior Approval consent for the conversion of the appeal property to residential use was granted on 19 June 2020 (CB/20/01489/PAAD). The existing building

has not yet been converted to a residential property, so the Class Q consents represent the fallback position.

5. The appeal proposal is a resubmission of an earlier scheme (CB/19/00036/FUL) which was for a 3 bedroom, 2 storey dwelling with a detached garage. That scheme was dismissed on appeal in December 2019 (APP/P0240/W/19/3235690).
6. 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.

Application for costs

7. An application for costs was made by Eva Aldridge against Central Bedfordshire Council. This application is the subject of a separate Decision.

Main Issues

8. The main issues are:

- (i) the effects of the appeal proposal on the character and appearance of the area and,
- (ii) whether the appeal proposal would be suitably and sustainably located in respect of the accessibility of services and facilities.

Reasons

Character and appearance

9. The appeal proposal would result in the demolition of the existing horticultural building with consent for a Class Q conversion to residential use and its replacement with a 2 bedroom bungalow. The footprint of the new bungalow would be approximately the same size as the existing building but shifted c5m to the north. The main difference in the scale of the new dwelling compared to the existing building would be in relation to the height of the proposed ridge. The new ridge would be, according to the Council, at a height of 5.8m compared to 4.2m. A new shed to the east of the dwelling is also proposed.
10. Thereby, the potential effects of the appeal proposal on character and appearance have altered significantly compared to the earlier scheme. This arises as a result of the single storey bungalow replacing the previous 3 bedroom, 2 storey detached dwelling and also from the proposed use of external cladding that would match the style of rural buildings in the locality. Visually, the proposed dwelling would be particularly well-screened from views along The Ridgeway from the north and east by belts of trees. From the south the appeal property can be seen as part of the collection of structures comprising the nursery although, trees and hedgerows provide some screening. From the east it is possible to see the nursery from a distance of more than 0.5km from Blunham Road, by looking across flat farmland through breaks in hedgerows. Where limited views would be possible, the proposed bungalow would replace a tired-looking unsightly single storey building. The increase in the resultant height of the ridge line would have limited impact on views but significantly lesser effects than the earlier 2 storey scheme. Moving the new building a short distance to the north would also curtail views from The

Ridgeway to the new bungalow as well as enabling the slab level to be at a lower level.

11. The Council have accepted that the changes to the scale, mass and height have responded to the Inspector's observations on the earlier proposal (APP/P0240/W/19/3235690) meaning that there would not be any undue detrimental impact on the character and appearance of the area arising from the appeal proposal. I concur with the Council's conclusion in relation to this issue. The replacement of the tired and unsightly horticultural building with a new single storey dwelling with a similar footprint would also help to improve the visual appearance in the immediate vicinity of the appeal site.
12. Accordingly, I conclude that the appeal proposal would not have a harmful effect on the character of the area and as such it would be consistent with Policy DM3 of the Central Bedfordshire Core Strategy and Development Management Policies - North 2009 (CSDMP) as well as section 12 of the Government's National Planning Policy Framework (the Framework). Policy DM3 seeks high quality new development appropriate in scale and design to their setting respecting local distinctiveness.

Access to local services and facilities

13. The appeal proposal is located outside of the established settlement hierarchy and associated settlement envelopes as defined by Policy DM4 of the (CSDMP). Thereby, the site falls within an area classified as open countryside. The settlements of Blunham and Moggerhanger are approximately 1km distant by road. This also means that the nearest shops, local services and amenities are located more than 1km away. There are no public footpaths between the appeal site and nearby villages and the roads do not have pavements. There are no frequent bus services directly serving the site. The appeal proposal includes a new cross country path, which would involve traversing one field, and provide a significantly shorter and safer walking route to the nearby facilities and services including the local school.
14. The appellant has indicated that Policy DM4 of the CSDMP is out-of-date. Policy DM4 is more restrictive than the approach in national guidance, taken as a whole, by providing blanket protection to open countryside. The Council have rebutted this point, drawing on the conclusions of several appeal decisions where the policy has been afforded at least moderate weight, even though the Council acknowledge the policy itself is not fully consistent with the Framework. Given this background, I am satisfied that Policy DM4 remains broadly consistent with the approach towards rural housing set out in the Framework. In addition, the Council has been able to demonstrate a 5-year supply of housing land, as confirmed in several further recent appeal decisions, so I am satisfied that Policy DM4 remains relevant and up to date for the purposes of determining this appeal and, that paragraph 11d) of the Framework is not engaged.
15. The Inspector into the earlier appeal (APP/P0240/W/19/3235690) considered accessibility to local facilities and services in some depth and concluded, *"the development would not be suitably located in terms of access to services and facilities as it would not minimise the need to travel, encourage sustainable patterns of transport, and it would result in future additional occupants being likely to have a heavy reliance upon the private motor vehicle."*

16. Although the appellant has argued that the site is in a sustainable location drawing on the proposed cross-country footpath and proximity to the National Cycle Network amongst other things, including other planning decisions and appeals in order to persuade me to come to a counter view to the previous Inspector. In short, I am not persuaded but, there are several important additional considerations that have a bearing on this issue in relation to the appeal proposal.
17. With regard to the fallback, the previous Inspector concluded this should be given little weight since, at the time of his decision, the new dwelling proposed was considerably larger compared to the existing horticultural building and, he felt that the true intent of the appellant was the new build. That aspiration still might well be the case. However, since the earlier appeal, the appellant has secured a further Class Q consent which, combined with statements in their final comments, in my mind, confirms their commitment to develop an additional or new dwelling, either through the Class Q conversion or the new build.
18. The critical point in relation to access to local facilities and services, however, is that under one scenario or the other, there is a high degree of certainty that a new dwelling would be built on the appeal site. In that light, it appears to me that the implications for accessibility to facilities and services in relation to this appeal would amount to the difference in effect on this issue between implementation of the Class Q consent compared to the appeal scheme. In relation to this, the location and scale of both proposals are for practical purposes the same except, under the appeal proposal, there is the benefit of an improved pedestrian linkage.
19. The Council argue that the fallback should continue to have only limited weight in this appeal. However, the proposal before me has changed considerably to the extent that the objections in relation to character and appearance in relation to the earlier scheme have been addressed. This has happened since the scale of the Class Q consent and the appeal proposal would be very similar. So, in considering the current appeal proposal against the fallback, the effects on accessibility to local facilities and services would, in effect, be substantially the same although, the appeal scheme has the advantage of the new footpath. This leads me to find that the fallback position should have significant weight in determination of this appeal.
20. Accordingly, while I conclude that the appeal proposal would be contrary to Policy DM4 of the CSDMP because the proposal is for the development of a new dwelling in open countryside for which no exceptional rural need has been identified and, that the site lies in a relatively inaccessible location even with the proposed footpath. Notwithstanding this, in the particular circumstances of this appeal, this conclusion would carry only limited weight in my decision because of the existence of the Class Q fallback consent and the broad similarity in the likely effects of the 2 schemes in relation to this issue.

Other Matters and Planning Balance

21. The Council Officer's report concludes that the location of the appeal proposal, away from other dwellings, means there would not be any adverse effects on the living conditions of neighbours and also that the appeal proposal would provide a satisfactory level of private amenity space and suitable living conditions for future occupants. In respect of Highways there was no objection

subject to appropriate provision for parking of cars and bicycles. There were no adverse comments in respect of ecology and surface water drainage.

22. The Council submitted, without any commentary, a further appeal decision as its final comments (APP/P0240/W/20/3248678). I have carefully read this decision but consider the circumstances of that case were significantly different to the current appeal.
23. With regard to the planning balance, I have concluded that the appeal site represents an inaccessible location with regard to access to local facilities and services. However, the location, scale and design of the appeal proposal means that its effects, due to the new footpath, would be less harmful than the extant Class Q conversion. Accordingly, the adverse effects in this particular case would be neutralised by the fallback position since there is a strong likelihood that the Class Q conversion would be implemented should this appeal be dismissed.
24. The appeal proposal would not harm the character and appearance of the area and the design of the new dwelling would have a positive visual impact on the immediate locality through the replacement of an unsightly horticultural building. In respect of the other matters, I have no reason to disagree with the conclusions of the Council, subject to the imposition of appropriate conditions.
25. Accordingly, I find that the benefits of the appeal proposal, taking account of the fallback position, would outweigh the harm.

Conditions

26. The Council have provided suggested conditions in the event I allow this appeal. I have made some additions and changes in order to ensure that the development is carried out satisfactorily, meeting the six tests set out in paragraph 55 of the Framework.
27. Conditions 1) and 2) relate to time period and the schedule of approved plans and are required as this provides certainty. Condition 3) requires the materials on external surfaces to be agreed and is required in the interests of protecting the character and appearance of the area. Condition 4) is required to establish the agreed datum ground and slab levels for the proposed development. This is necessary to protect the character and appearance of the area. Condition 5) requires details of proposed hard and soft landscaping including boundary treatments. This is required to ensure an appropriate level of landscaping. Condition 6) ensures that there is adequate turning space for delivery and service vehicles to ensure they do not need to reverse onto the public highway in the interest of public highway safety. Condition 7) is to ensure that appropriate facilities for the storage of cycles is provided in the interests of encouraging sustainable travel. Condition 8) requires a collection point to be provided for refuse bins to be left close to the public highway without interfering with the visibility of drivers undertaking routine traffic movements. Condition 9) requires the details of a noise impact assessment to be agreed to ensure that the living conditions of future residents are protected. Condition 10) specifies the process to be followed in the event that contamination is encountered during construction works. This is required to reduce the risks from pollution. Finally, Condition 11) requires the details of the proposed footpath to Moggerhanger to be provided as part of the development to be

agreed in the interests of safety and protecting the character and appearance of the countryside.

28. Condition 4) is a pre-commencement condition to which the appellant has agreed. In relation to Condition 10) regarding potential contamination, I have replaced the Council's suggested condition with an alternative which takes a precautionary approach in the event any contaminants are encountered during building works, rather than requiring a detailed study in advance of construction activity.

Conclusion

29. For the reasons stated above, I allow this appeal and grant planning permission subject to conditions.

David Carter

INSPECTOR

SCHEDULE OF CONDITIONS [11 in total]

- 1) The development hereby permitted shall begin not later than 3 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, 1:2500
Ownership Plan, 1:2500
Existing Layout Ref 2017/09/001,
Existing North and South Elevation Ref 2017/09/002,
Existing East and West Elevation Ref 2017/09/003,
Site Plan Ref 2019/09/001,
Proposed Layout Plan Ref 2019/09/002,
Proposed North and South Elevation Ref 2019/09/003,
Proposed West Elevation Ref 2019/09/004,
Proposed East Elevation Ref 2019/09/005,
Bicycle Storage Shed Ref 2020/01/007.
- 3) No development shall take place above slab level, notwithstanding the details submitted with the application, until details of the materials to be used for the external walls and roofs of the development hereby approved have 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.
- 4) No development shall take place until details of the existing and final ground and slab levels of the buildings hereby approved have been submitted to and approved in writing by the local planning authority. Such details shall include sections through both the site and the adjoining properties, the location of which shall first be agreed in writing with the local planning authority. Thereafter the site shall be developed in full accordance with the approved details.
- 5) No development shall take place above slab level until a landscaping scheme to include all hard and soft landscaping including boundary treatments and a scheme for landscape maintenance for a period of five years following the implementation of the landscaping scheme have been submitted to and approved in writing by the local planning authority.. The approved scheme shall be implemented by the end of the full planting season immediately following the completion and/or first use of any separate part of the development (a full planting season means the period from October to March). The trees, shrubs and grass shall subsequently be maintained in accordance with the approved landscape maintenance scheme and any which die or are destroyed during this period shall be replaced during the next planting season.
- 6) The development shall not be brought into use until a turning space for service/delivery sized vehicles (6.5m length) has been constructed within the curtilage of the site in a manner to be approved in writing by the local planning authority. Thereafter, the turning area shall be retained unobstructed for its use as a turning area for the perpetuity of the development
- 7) A scheme for the secure and covered parking of cycles on the site calculated at one cycle parking space per bedroom shall be fully

- implemented before the development is first occupied or brought into use and thereafter retained for this purpose.
- 8) A refuse collection point located at the site frontage and outside of the public highway and any visibility splays shall be fully implemented prior to occupation of the dwelling hereby permitted and shall be retained thereafter.
 - 9) Prior to any occupation of the dwelling hereby permitted a scheme, supported by a noise impact assessment, shall be submitted for the protection of the dwelling from noise arising from the adjacent commercial premises and associated activities, for approval in writing by the local planning authority. The dwelling shall not be occupied until the approved scheme has been implemented and shall be retained thereafter.
 - 10) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development [or relevant phase of development] is resumed or continued.
 - 11) No development shall commence above slab level until full details of the proposed "footpath" to Moggerhanger, including surfacing materials, boundary treatment and footpath width have been submitted to and approved in writing by the local planning authority. The footpath shall be constructed in accordance with the approved details prior to the first occupation of the dwelling and shall be retained in perpetuity thereafter.

END OF SCHEDULE