



Appeal Decision

Site Visit made on 9 November 2020

by Mr Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 November 2020

Appeal Ref: APP/P0240/W/20/3257702

Land off Biggleswade Road, Upper Caldecote, Biggleswade SG18 9BJ

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 outline planning permission

The appeal is made by Redcrest Developments Ltd against Central Bedfordshire Council.

The application Ref CB/20/00645/OUT, is dated 19 February 2020.

The development proposed is erection of ten (10x) dwellings.

Decision

1. The appeal is dismissed, and planning permission is refused.

Preliminary Matters

2. The appeal proposal is for outline planning permission with all detailed matters except for access reserved for future approval. Whilst not formally part of the scheme, I have treated any details submitted with the appeal application relating to matters of appearance, landscaping, layout and scale as a guide to how the site might be developed.
3. The Pre-Submission version of the emerging Central Bedfordshire Local Plan 2015-2035 (the CBLP) was submitted to the Secretary of State in April 2018. There is nothing before me to indicate that the CBLP is currently at a stage that should attract anything more than limited weight. I shall consider the appeal on this basis.
4. Had the Council been in a position to determine the application it would have been refused for reasons related to its effect upon the rural character and appearance of the area, to its effect upon the local and strategic highway network and to the absence of a completed legal agreement to offset infrastructure impact including through the provision of on-site affordable housing. I have formulated the main issues in this appeal from this starting point following my full reading of the submitted evidence.

Main Issues

5. The main issues are:
 - The effect upon the character and appearance of the area;
 - The effect upon highway safety; and
 - Whether or not the proposed development makes an adequate contribution towards affordable housing.

Reasons

Character and appearance

6. Policy DM4 of the Central Bedfordshire Core Strategy and Development Management Policies (November 2009) (the CBCSDMP), through the identification of Settlement Envelopes, differentiates the built-up areas of settlements from areas of countryside situated beyond. The site sits outside of Upper Caldecote's defined Settlement Envelope.
7. The National Planning Policy Framework (February 2019) (the Framework) does not imply that protection from development be given to the countryside in its totality, rather that valued landscapes be protected and enhanced and that recognition should be given to the intrinsic character and beauty of the countryside.
8. When compared to the approach set out in the Framework, Policy DM4 is more restrictive in seeking to control development beyond the District's Settlement Envelopes. Nevertheless, Policy DM4 does not explicitly prevent all types of development outside of defined envelopes where no land is available within a settlement and proposed development adjacent to it would make best use of available land and lead to more sustainable communities. Whilst noting that the loss of undesignated countryside is capable of being harmful and attracting of weight in the planning balance, I find that Policy DM4 accommodates rural development based on objectives that are broadly consistent with the Framework.
9. The site currently contains a limited array of stables/structures as well as associated paraphernalia and equipment. However, for the most part, the site is comprised of undeveloped paddock land. An established hedgerow runs the site's southern boundary to Biggleswade Road (the road), yet views into the site are still available from selected vantage points along the road, as well as from alongside the A1 to the east. I observed the site and its immediate surroundings to exhibit a predominantly rural character and appearance befitting of its countryside designation. Indeed, as noted by the Council's Landscape Planner, it reads as an integral part of a farmed landscape.
10. I accept that other development is already in place to either of the road's sides upon sites situated to the east of and outside of the Settlement Envelope. However, existing and/or future instances of development to the opposite southern side of the road have only a moderate influence upon how the predominantly open and undeveloped lands situated to the road's northern side are read and experienced. I also note that the site is set away from the nearest residential development to the west.
11. It is the intention that at least some bungalows be provided, and it is anticipated that new planting would be implemented to the site's various edges as part of a scheme of soft landscaping. However, any additional or supplemental landscaping ultimately proposed to the site's boundaries in the interests of providing visual mitigation would take time to properly establish and would be reliant on continual management to maintain a consistent buffer to views. A residential development of the site, at the quantum proposed, would appear as an urbanising intrusion into the open countryside causing harm to the rural character and appearance of the area.

12. I acknowledge that the site does not occupy an isolated location. Indeed, I observed the site to be connected to Upper Caldecote via a stretch of the road that is both lit and pathed. A variety of facilities and services capable of serving the day-to-day needs of future occupiers of the development are contained within the settlement and local bus services stop near to the site. I also note that the wider area is predominantly rural such that car travel would often be essential and, at times, unavoidable for local residents. In this context I am satisfied that the appeal site has acceptable access to surrounding facilities and services.
13. However, for the above reasons, the proposal would cause harm to the character and appearance of the area. The proposal conflicts with Policies DM3, DM4, DM14 and CS16 of the CBCSDMP and Policy NP6 of the Northill Parish Neighbourhood Plan (October 2019) in so far as these policies require proposals to contribute positively to existing character and that any proposals that will have an unacceptable impact on the landscape quality of the area will be refused.

Highway safety

14. The site is located approximately 200m to the west of the road's junction with the A1 (the junction). The A1 is a dual carriageway and makes up part of the strategic road network. The junction is a priority junction that incorporates diverge and merge lanes/tapers with respect to the northbound carriageway and that offers motorists the opportunity to turn right on to the southbound carriageway via a gap in the central reservation. It was evident from inspection that the A1, at and in proximity to the junction, accommodates fast-moving and frequent traffic movements in both directions.
15. Highways England (HE) has, in correspondence dated 26 August 2020, recommended that planning permission should not be granted for a specified time period (now expired) in order to allow relevant safety assessments to be undertaken. Indeed, they have referred, amongst other matters, to recorded road traffic collisions. HE's stance is an important factor as they are responsible for the safety of users of the strategic road network. Their recommendations attract considerable weight and relevance and I am unaware of any submissions made to seek to address or challenge them.
16. The submitted Transport Statement (February 2019) (the TS) offers a review of collision records and assesses the trips that would be generated by the proposal. Five collisions have been identified at the junction between 2014 and 2018, four of which involved vehicles turning either into or out of the road. Whilst these incidents have been reported as being of slight severity, an analysis of the records does not, to my mind, rule out the existence of a road safety issue at the junction.
17. I have no reason to doubt the accuracy of the trip generation forecasts set out in the TS and I am content that the anticipated additional trips, even when considered alongside other committed developments locally, would have an acceptable effect upon the local highway network. I am also satisfied that the proposed site access arrangements are acceptable. Even so, a proposal for 10 additional dwellings at this site would realistically lead to a material increase in traffic movements at the junction. This is relevant in the context of HE's recommendations specific to the strategic road network and raises highway safety concerns accordingly.

18. I have noted reference within the TS to anticipated future widening works being undertaken to the junction in association with a consented mixed-use development located to the opposite southern side of the road. However, full details of these anticipated works are not before me, and neither is any indication that any such works would alleviate HE's stated safety concerns.
19. Whilst a severe impact upon the highway network would not be anticipated, for the above reasons it has not been satisfactorily demonstrated that the proposal would have an acceptable effect upon highway safety. I thus find potential harm. The proposal conflicts with the Framework in so far as it guards against development having an unacceptable impact on highway safety. For the avoidance of doubt, Policy DM3 of the CBCSDMP is of limited relevance to my considerations here as no explicit reference to highway safety is contained within it.

Affordable Housing

20. Policy CS7 of the CBCSDMP indicates that new housing development should provide an element of affordable housing and that this should normally be 35% or more of the proposed units. Indeed, the main parties to this appeal agree that the scheme is eligible to provide affordable housing provision.
21. It is apparent from the evidence before me that different potential options for the basis of a legal agreement to secure on-site provision have been raised and given at least some consideration by the main parties. However, a completed legal agreement is not before me and the appellant has suggested that a planning condition could be imposed to secure the full details and subsequent implementation of a scheme of affordable housing.
22. The Planning Practice Guidance (the Guidance) sets out that planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. However, for affordable housing to be provided effectively, arrangements would be required to be made to transfer it to an affordable housing provider, to ensure that appropriate occupancy criteria are defined and to ensure that it remains affordable to all initial and subsequent occupiers. The legal certainty provided by a planning obligation (either a unilateral undertaking or bilateral section 106 agreement) makes it the most fitting and appropriate way of ensuring that such arrangements are effective.
23. The Guidance indicates that only in exceptional circumstances will a negatively worded condition, requiring an agreement to be entered into before development can commence, be appropriate (typically with respect to complex development proposals where otherwise delivery would be at serious risk), and I do not find those exceptional circumstances to apply here.
24. I note that the appellant's suggested condition, as drafted, would not explicitly require a planning obligation to be entered into. Indeed, the draft condition does not confirm the method/mechanism by which the intended affordable housing would ultimately be delivered. However, for the reasons set out above, a legal agreement is necessary in this instance. The Guidance's tests with respect to the use of conditions to secure obligations thus apply.
25. In the absence of an appropriate mechanism to secure on-site provision, I find that the proposal does not make an adequate contribution towards affordable

housing. The proposal conflicts with Policy CS7 of the CBCSDMP and with the Framework in so far as these policies require that new housing development should provide an element of affordable housing.

Planning Balance

26. Whilst Policy DM4 of the CBCSDMP is a restrictive policy, I have found it to be based on objectives that are broadly consistent with the Framework. I afford moderate weight to the proposal's conflict with Policy DM4. The policies most important for determining this appeal, which include Policy DM4, when taken as a whole, are not out-of-date.
27. The appellant has challenged the Council's ability to demonstrate a 5-year supply of deliverable housing sites. Indeed, it is alleged that a sufficient supply of housing against the new standard method for calculating local housing need has not been demonstrated. Nevertheless, the Framework indicates that exceptional circumstances can justify an alternative approach to the standard method being used to inform strategic policies where current and future demographic trends and market signals are also reflected.
28. Appeal decisions relating to sites elsewhere within the District have been put before me by the Council where the evidence was tested through questioning and the respective Inspectors found that circumstances for departing from the standard method did apply to the development proposals that were before them. These include decisions dated as recently as earlier this year where it was found that inaccuracies in population data used for the standard method lead to an over estimation of housing supply requirements. Indeed, I have no reason to doubt that the Council has acted appropriately by using objectively assessed need identified through its Strategic Housing Market Assessment as the starting point for its housing supply calculations.
29. Having considered the full suite of evidence that is before me, including the Council's July 2020 5-year housing land supply statement, I am content that in excess of a 5-year supply of deliverable housing sites can currently be demonstrated within the District. I have thus not applied the presumption in favour of sustainable development as set out at paragraph 11 of the Framework.
30. The proposal would deliver 10 additional housing units in a location with acceptable access to surrounding facilities and services (including local bus services) and the Framework reaffirms the Government's objectives of significantly boosting the supply of homes and promoting an effective use of land. However, 10 additional dwellings would not make a clear and noticeable difference to the overall housing land supply position in the District and, as such, I afford this benefit of the scheme moderate weight.
31. The proposal would also provide jobs during the construction phase, support for the local economy and local community facilities once occupied and additional Council Tax revenue. I have also noted a letter of support from a neighbouring resident indicating that the proposal would promote a sense of community. However, even when noting the economic and social implications of the Covid 19 pandemic, due to the relatively limited scale of development under consideration, I afford these benefits moderate weight in cumulative terms.

32. Notwithstanding any intention to implement a scheme of ecological/biodiversity enhancement, to include replacement/new planting and the installation of bird and bat boxes, the enhancements ultimately delivered would realistically be anticipated to be modest across a site of this scale and, as such, attract limited weight. Whilst reference has been made within the appellant's appeal statement to the intended transfer of allotments, no further details nor any mechanism to secure such a transfer have been placed before me. I thus do not attribute weight in the planning balance to allotment provision.
33. The scheme's benefits, when considered in cumulative terms, would be relatively modest and would not outweigh the various harms and associated policy conflicts that I have identified in the contexts of the scheme's effect upon the character and appearance of the area, its effect upon highway safety and the failure to secure an appropriate contribution towards affordable housing. The development conflicts with the development plan when read as a whole, and material considerations do not lead me to a decision otherwise.

Conclusion

34. For the reasons given above, the appeal is dismissed.

Andrew Smith

INSPECTOR