



Appeal Decision

Site visit made on 28 September 2020

by A Denby BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 January 2021

Appeal Ref: APP/P0240/W/20/3254992

Land rear of 3 Lynton Cottage, Great North Road, Lower Caldecote, Biggleswade, SG18 9BE

- 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 Frances Nicholls against the decision of Central Bedfordshire Council.
 - The application Ref CB/19/02263/FULL, dated 9 July 2019, was refused by notice dated 24 February 2020.
 - The development proposed is erection of four detached dwellings, garages and access improvements.
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Decision

1. The appeal is dismissed.

Main Issues

2. 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; and the impact of the proposed development on:
 - the character and appearance of the area.
 - the living conditions of potential future occupants, with particular regard to noise; and
 - a mineral safeguarding area.

Procedural Matters

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.
4. A signed and dated Unilateral Undertaking (UU) pursuant to section 106 of the Town and Country Planning Act 1990 (as amended) has been submitted to the appeal. The UU contains an obligation relating to occupation by named persons and their provision as self-build dwellings. The Council has had the opportunity

to comment upon the document and I have had regard to it in reaching my decision.

Reasons

Location

5. The site comprises an area of land which sits partially behind a small terrace of cottages that are in close proximity to and front on to the A1. The appeal site is not within a defined settlement and is therefore situated within the open countryside.
6. The site is located close to Lower Caldecote, though this is not a defined settlement, and there are no facilities available at this location. The nearest services and facilities to the site would be in Upper Caldecote, with potential for some employment opportunities also available at a nearby site. However, occupants would still likely need to travel to other centres to meet their day to day needs.
7. There is a surfaced footpath along the A1 towards Upper Caldecote, though this is an extremely busy road with fast moving traffic, which does not provide a particularly inviting route for either pedestrians or cyclists. Upper Caldecote is also a significant walking distance from the site and considering this and the busy nature of the A1, I do not consider this would present a likely or attractive option, particularly for those with young children, pushchairs or using wheelchairs.
8. I saw on my site visit that beyond Lower Caldecote there is no surfaced footpath and pedestrians would be reliant on grass verges which are uneven and unsuitable for walking. On the basis of the above I therefore consider it more likely that occupants would drive to nearby centres. Due to the arrangement of the A1, vehicles would be restricted to left hand turns when exiting the site. They would therefore be directed towards other centres with a greater range of services and facilities.
9. The appellant has stated that the site would be accessible by local bus services, with a bus stop within easy walking distance of the site at Lower Caldecote. However, the details submitted show that the frequency of the services are limited, and the route does not appear to go via the nearest settlement of Upper Caldecote.
10. On my site visit I did not see any obvious signs of where the bus stops are located, and although a stop at Lower Caldecote may be accessible from the site, it is not clear where any return services would stop. There is no pedestrian crossing or refuge within the vicinity of the site or Lower Caldecote that would facilitate crossing the A1. There is a vehicular crossover though any pedestrians attempting to cross the road, with fast moving traffic, would be put at considerable risk. In order to avoid crossing the A1, users of the service would experience longer journeys.
11. Considering this, the infrequency of the services and that nearby centres are closer and more easily accessible by car, I consider the appeal of public transport for future occupants may well be limited, and they would be more reliant on the private car for access to services and facilities.

12. The appellant has referenced a Court of Appeal Judgement¹ regarding whether a site can be considered to be isolated. Whilst the site may not be physically isolated from other development 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 limited options in terms of sustainable modes.
13. Policy DM4 of the Core Strategy and Development Management Policies, 2009 (CS), through the identification of settlement envelopes, largely differentiates the built-up areas of settlements from the open countryside beyond. This Policy also identifies forms of development that would generally be acceptable within settlements and essentially discourages development within the countryside.
14. The Policy, therefore, in part protects the countryside for its own sake and in that regard departs from the approach advocated in the National Planning Policy Framework (the Framework), by not recognising different levels of protection for landscapes and the countryside's intrinsic character and beauty.
15. The supporting text to the Policy though does state that the settlement envelopes were drawn not only to protect the countryside for its own sake, but also to protect the coalescence of settlements and to assist with the operation of the development strategy. That strategy being to direct new housing to larger more accessible settlements, an approach which is consistent with the Framework. However, as this Policy is not wholly consistent with the Framework it can only be attached moderate weight.
16. Nevertheless, the site is not within a defined settlement and as detailed above the development would be heavily reliant on the private vehicle. It would therefore conflict with CS Policy DM4 and fail to meet key sustainability aims of the Framework and its approach of giving priority to pedestrian and cycle movements, and so far, as possible, facilitating access to public transport.

Character and appearance

17. The site lies partially to the rear of an existing terrace of cottages which front on to the A1 and there is a distinct linear arrangement to development at this location. The surrounding area is predominately rural in character and due to the relatively level terrain there are wide ranging views across open agricultural fields which are interspersed with hedges and trees. The appeal site is reflective of this, being largely devoid of any structures, and visually it relates more to the open countryside. It makes a positive contribution, having an open and spacious character and providing relief from the urban influence of the A1.
18. The appeal scheme would, due to its size, design, layout and spacing between the proposed dwellings, bear no resemblance to this existing pattern of development. The proposed would be viewed as a separate development sitting behind, and extending significantly beyond, the existing linear arrangement.
19. I saw on my site visit that whilst there is a tight knit clustered development at Lower Caldecote, and pockets of commercial development in the wider area, there is significant separation between them, and the appeal site and they are not a defining characteristic of the surrounding area.

¹ Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd [2018] EWCA Civ 610

20. The A1 is a significant feature that cuts through the rural landscape and the Central Bedfordshire Council Landscape Strategy, 2015 (LCA), states that the strategy for the area, identified as the Lower Ivel Clay Valley, is to strengthen the landscape character. However, as detailed above, the proposals would result in the creep of built development further into the countryside. The scheme also proposes a substantial access road, and this would have a further urbanising impact, which would harm the rural character of the site and surrounding area, eroding the positive contribution the site makes to the character and appearance of the countryside.
21. The appellant considers the provision of additional planting would mitigate the visual impacts and a condition could address this concern. However, from my site visit it was evident that the existing landscaping is limited and much of it would be removed or reduced as part of the proposals.
22. There would be clear uninterrupted views of the development and considering this and the overall height, bulk and spread of the proposed development it would take some considerable time for any landscaping to establish and provide an effective screen. The proposal would significantly impact on the existing landscaping and there would appear to be limited opportunity within the site for replacement planting alongside the proposed access to soften its harmful visual impact.
23. There would be scope for more substantial landscaping to the rear of the proposed 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 may seek to maximise views over the countryside.
24. Therefore, although the provision of landscaping would be a positive aspect, 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 built development and sufficiently mitigate its harmful visual impact. The use of conditions to address this would therefore not be reasonable.
25. In addition, there is also uncertainty regarding any noise mitigation measures which may be required and I have dealt with this matter further below. However, whilst the appellant states that a requirement for acoustic fencing is highly unlikely there is no detail to substantiate this. In the absence of any basic information as to what measures may be necessary, it is simply not possible to determine the effect on the character and appearance of the site or surrounding area.
26. For the above reasons, I conclude that the development would conflict with CS Policies DM3, DM14, CS14 and CS16, which amongst other things, seek to ensure that developments achieve high quality, complement the surrounding pattern of development, respect local context, and enhance landscapes in accordance with the LCA. For the same reasons the proposal would fail to achieve the high-quality design requirement of Section 12 of the Framework.

Noise

27. The site is located in very close proximity to the A1 which, as detailed above is an extremely busy road with fast moving traffic. At my site visit it was evident

- that the A1 is a dominant noise source and the proposed dwellings would be exposed to this.
28. No noise assessment has been provided and it has not been demonstrated that the impact to the living conditions of future occupants has been fully considered. In addition, it is not clear whether any mitigation measures would be required and if so, whether these would affect the proposed layout or be acceptable in all other respects.
29. On the basis of the above the proposal has failed to demonstrate that a suitable living environment can be achieved for all future occupants and is therefore contrary to CS Policy DM3 and Paragraph 127(f) of the Framework which seek to ensure that developments are of a high quality, promoting health and well-being and achieve a high standard of amenity for future users.
30. The appellant has stated that conditions could address this concern and I note the Council's Pollution Officer, whilst objecting to the scheme referred to a condition. Nonetheless, it has not been demonstrated, even at a basic level, that suitable living conditions could be provided, and considering the proximity to a very dominant noise source I am not satisfied that this matter could be dealt with by condition. This does not, therefore, lead me to a different conclusion.

Mineral safeguarding area

31. The appeal site lies within a mineral safeguarding area (MSA) and Policy MSP11 of the Minerals and Waste Local Plan: Strategic Sites and Policies, 2014 (MWP) requires proposals within the MSA to be accompanied by a Minerals Resource Assessment (MRA) though MWP Policy MSP12 sets out exemption criteria.
32. The proposals are not supported by an MRA, and on my assessment, the proposal does not meet any of the exception criteria. There is little detail to demonstrate that the mineral could be extracted prior to the development taking place and the proposal would not constitute infilling development. The site is not sterilised, being largely devoid of structures and the development for housing could not be considered as minor.
33. In the absence of an appropriately conducted survey, undertaken by a suitably qualified professional, the extent of, or impact on, the mineral resource or what mitigation measures would be appropriate are simply not known, and given this degree of uncertainty the use of conditions to require a survey to be undertaken would not, in this case, be reasonable.
34. 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 mineral resources. The development would therefore conflict with MWP Policy MSP 11 which requires developments within mineral safeguarding areas to be accompanied by an MRA.
35. The appellant has referred to other sites and schemes which they state were not required to undertake an MRA. I do not have the full details of those cases before me though, in any event, each case needs to be considered on its own merits. This does not, therefore, lead me to a different conclusion on this matter.

Planning Balance

36. The Council has stated that they are able to demonstrate a 5year housing land supply and there is nothing in the evidence before me to indicate that this is not the case. Therefore paragraph 11 d) of the Framework is not engaged.
37. I note that the Framework emphasises the need to support the efficient use of land and that the proposal would provide four additional dwellings. Although I recognise the important contribution small sites can make to meeting the housing requirements of an area, the proposal 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.
38. There would be a lack of accessibility by means of transport other than the private car and this weighs significantly against the proposals. The extent of proposed footpath works would be limited, and this matter attracts little weight. The provision of electric vehicle charging points, to contribute towards sustainability could be secured by condition. However, this is of neutral weight given that it would serve to offset the impact of traditionally fuelled cars which would be more heavily utilised due to the appeal site location.
39. The proposal would provide sufficient parking and turning areas and no concerns have been raised in relation to highway safety, though this would have a neutral effect, and therefore does not weigh in favour of the appeal.
40. The appellant has stated that the proposed dwellings would be constructed as self-build custom properties and only occupied by named persons or their family members and a signed unilateral undertaking has been submitted to support this.
41. I note that the CS and Northill Parish Neighbourhood Plan 2019-2031, seek to encourage self-build properties and the site would be convenient for the appellant and their family. Whilst meeting demand for self-build custom properties may present a challenge, there is no substantive evidence that local self-build or affordable housing requirements could not be met through proposals that accord with the Development Plan. Furthermore, there is little detail regarding any existing shortfall or to demonstrate that the proposals would address this. The benefit of providing self-build properties therefore carries only limited weight.
42. The appellant has referred to an appeal decision² 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. 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.

² APP/W0530/W/19/3230103

43. Another appeal³ has also been referenced, though that scheme also included detailed evidence in relation to the shortfall and the proposal made a significant contribution to meeting the identified demand. Furthermore, the site was located on the fringe of the settlement and the Inspector in that case concluded that there would be no adverse impact to the character and appearance of the area. As outlined above this is not the case with the appeal scheme and these other schemes are not directly comparable, and do not therefore lead me to a different conclusion.
44. The appellant has also referred to schemes on other sites which were permitted although they fell outside settlement boundaries. It is clear that CS Policy DM4 has not been acting as a complete bar to development. However, the sites identified at Biggleswade Road are located closer to Upper Caldecote, with greater proximity to local services and facilities and where occupants would not be required to walk alongside the A1 to access them.
45. In respect of one of those schemes⁴, the Inspector stated that the site did not play a significant role in the definition of the area's character, which was identified as being a relatively close knit-built environment. It was also stated that the site was well screened and lacked prominence. This is not the case with the appeal site which has a distinctly different character and appearance.
46. The scheme for the site at Woodlands nurseries⁵ comprised a substantial commercial and housing development. The Council identified that it was not ideally located to local services and amenities, but they considered the substantial benefits of the scheme outweighed the harm in that case.
47. From the details before me the other decisions referenced appear to have been located partially within or in closer proximity to settlement boundaries, and the Inspectors in those cases found no harm to the character and appearance of the surrounding area. This is not the case with the current appeal scheme.
48. Therefore, whilst I am mindful of those decisions, they dealt with sites and schemes that were significantly different to the scheme before me. Each site must be considered on its own merits and these other decisions do not, therefore, lead me to a different conclusion.

Conclusion

49. The harm I have identified in relation to the location of the dwellings, their limited accessibility to services and facilities by sustainable modes of transport, noise, minerals and the character and appearance of the area would not be outweighed by the limited benefits of the proposals. Therefore, for the reasons stated above I therefore conclude that the appeal should be dismissed.

A Denby

INSPECTOR

³ APP/G2435/W/18/32144451

⁴ APP/P0240/W/19/3229030

⁵ Refs: CB/17/04476/OUT; CB/18/04431/RM & CB/18/04113/RM